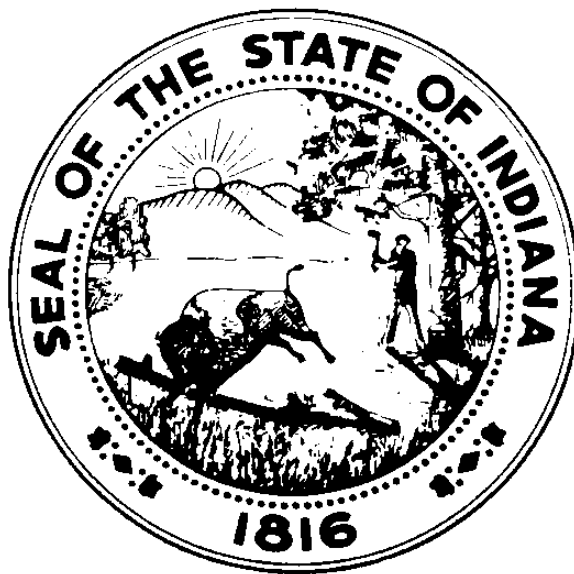


# INDIANA AUCTIONEER COMMISSION

**Indiana Statutes and Administrative Code**

**2006**  
EDITION



Indiana Professional Licensing Agency  
402 West Washington Street, Room W072  
Indianapolis, IN 46204  
[plal1@pla.in.gov](mailto:plal1@pla.in.gov)

**NOTICE:** This compilation incorporates the most recent revisions of statutes and rules available as of **January 1, 2006**. Note that this compilation is not an official version of the Indiana Code or the Indiana Administrative Code. It is distributed as a general guide to Indiana auctioneer law and regulations. It is not intended to be offered as legal advice, and it may contain typographical errors. Neither the Indiana Auctioneer Commission nor its staff is able to provide legal advice on issues contained herein. For legal advice, please consult with an attorney. To obtain official copies of the Indiana Code or Indiana Administrative Code, contact your nearest public library.

If you wish to obtain additional copies of this law book, they are available for free on our website at <http://www.in.gov/pla/bandc/auction>. Additional hard copies are available for the cost of copying and mailing from the Indiana Professional Licensing Agency. Please email [pla11@pla.in.gov](mailto:pla11@pla.in.gov) for additional information.

## Table of Contents

### Indiana Statutes: Title 25, Article 6.1 Auctioneers and Auctions

Chapter 1. Short Title and Definitions .....	1
Chapter 2. Creation of Commission.....	1
Chapter 3. Licensing .....	3
Chapter 4. Suspension and Revocation of License .....	6
Chapter 5. Repealed.....	6
Chapter 6. Licensee Obligations .....	6
Chapter 7. Penalties .....	7
Chapter 8. Auctioneer Recovery Fund.....	7
Chapter 9. Continuing Education.....	10

### TITLE 25, Article 1, General Provisions

Chapter 11. Professional Licensing Standards of Practice.....	12
---	----

### Indiana Administrative Code

#### Title 812, Article 1, General Provisions

Rule 1. Powers of Commission; Permitted Activities; License Procedure; Fees .....	15
---	----

#### Article 2. Auctioneer Courses

Rule 1. Definitions; General Provisions .....	22
Rule 2. Approved Course Providers; General Requirements.....	23
Rule 3. Instructors.....	24
Rule 4. Conduct of Courses .....	24
Rule 5. Course Providers; Miscellaneous Prohibitions .....	25
Rule 6. Auctioneer Course; Subject Area of Emphasis .....	26
Rule 7. Auctioneer Course; Outline.....	27

### **Article 3. Continuing Education**

Rule 1. Continuing Education Requirements; General .....	29
--	----

If you notice any errors or omissions in this or any other rule book Published by the Indiana Professional Licensing Agency, Please write or fax to Commission Director, 402 West Washington Street, Room W072, Indianapolis, IN 46204-2700. Your help improving these rulebooks is greatly appreciated.

The following statutes were amended in 2003: IC 25-6.1-3-2; IC 25-6.1-3-3; IC 25-6.1-3-4; IC 25-6.1-3-5; and IC 25-6.1-9-1.

The following statutes were amended in 2005: IC 25-6.1-3-2; IC 25-6.1-3-5; IC 25-6.1-3-8; and IC 25-6.1-9-7.

## **IC 25-6.1**

### **ARTICLE 6.1. AUCTIONEERS AND AUCTIONS**

#### **IC 25-6.1-1**

##### **Chapter 1. Short Title and Definitions**

###### **IC 25-6.1-1-1 Short title**

Sec. 1. Short Title. This article shall be known and may be cited as the "Auctioneer and Auction Licensing Act."

*As added by Acts 1977, P.L.270, SEC.1.*

###### **IC 25-6.1-1-2 Scope of article**

Sec. 2. This article provides licensing and registration for persons engaged in operating, conducting or otherwise producing auctions. No other agency or political subdivision of the state shall impose on a licensee or seller at auction any registration or license requirement or any license or employment fee or charge on account of such auction activities.

*As added by Acts 1977, P.L.270, SEC.1. Amended by Acts 1980, P.L.163, SEC.1.*

###### **IC 25-6.1-1-3 Definitions**

Sec. 3. As used in this article:

**"Auction"** means a sale transaction conducted by means of oral or written exchanges between an auctioneer and the members of his audience, which exchanges consist of a series of invitations for offers for the purchase of goods or real estate made by the auctioneer and offers to purchase made by members of the audience and culminate in the acceptance by the auctioneer of the highest or most favorable offer made by a member of the participating audience.

**"Auction company"** means any person or persons who, as a part of its business, arranges, manages, sponsors, advertises, or carries out auctions.

**"Auction house"** means an established place of business including an auction barn, a sale barn, and a sale pavilion and its contiguous surroundings where two (2) or more auctions are held within any twelve (12) month period and where representations are regularly made that goods are sold at auction. Each day during which goods or real estate are being offered for sale at auction shall constitute one (1) auction. A sale barn or livestock auction market that is used exclusively for the auctioning of livestock and is licensed by the Indiana state board of animal health is not an auction house as defined herein.

**"Auctioneer"** means an individual who is engaged in, or who by advertising or otherwise holds himself out as being available to engage in, the calling for,

the recognition of, and the acceptance of offers for the purchase of goods or real estate at an auction.

**"Commission"** means the Indiana auctioneer commission.

**"Goods"** means any goods, wares, chattels, merchandise, or other personal property, including domestic animals and farm products.

**"Licensee"** means any person licensed or issued a temporary permit under this article and, in the case of an auction house or auction company, includes the person required to obtain a license for such auction house or auction company.

**"Organization"** means a corporation, a limited liability company, a partnership, a trust (specifically including a business trust), a firm, an association, or any other form of business enterprise which is owned by two (2) or more individuals.

**"Person"** means an organization or an individual.

**"Real estate"** means any right, title, or interest in real property, including fixtures.

**"Licensing agency"** means the Indiana professional licensing agency established under IC 25-1-6.

*As added by Acts 1977, P.L.270, SEC.1. Amended by Acts 1980, P.L.163, SEC.2; Acts 1981, P.L.222, SEC.35; P.L.132-1984, SEC.14; P.L.214-1993, SEC.13.*

#### **IC 25-6.1-2**

##### **Chapter 2. Creation of Commission**

###### **IC 25-6.1-2-1 Creation and membership**

Sec. 1. (a) The Indiana auctioneer commission is created consisting of six (6) members, not more than four (4) of whom may be members of the same political party.

(b) A member of the commission is appointed by the governor to serve for a term of three (3) years and until his successor is appointed and qualified. A vacancy arising on the commission shall be filled by the governor, and the individual appointed to fill such vacancy shall serve for the unexpired term of the individual whose vacancy is being filled.

(c) Five (5) individuals appointed to membership on the commission must be citizens of Indiana and engaged as auctioneers for a period of not less than five (5) years immediately preceding their appointment. One (1) individual appointed to membership on the commission must be a citizen of Indiana who has not been associated with auctioneering in any way other than as a consumer.

(d) An individual may not act as a member of the commission while holding another elected or appointed office in either the state or federal government.

*As added by Acts 1977, P.L.270, SEC.1. Amended by Acts 1981, P.L.222, SEC.36.*

#### **IC 25-6.1-2-2 Meetings**

Sec. 2. (a) The commission shall meet each January, at a time and place established by the chairman, to conduct an election of officers and such other business as may be appropriate. The commission shall also meet upon the call of the chairman or upon the request of any two (2) members of the commission. The secretary shall provide reasonable notice of the time and place of each meeting to all members.

(b) Three (3) members constitute a quorum for the purpose of transacting business. A majority vote of the commission is necessary to bind the commission.

*As added by Acts 1977, P.L.270, SEC.1.*

#### **IC 25-6.1-2-3 Officers**

Sec. 3. (a) At the meeting to be held each January, the commission shall elect from its membership a chairman and a vice chairman. Each officer shall serve for a term of one (1) year and until his successor is elected.

(b) The chairman shall preside at all meetings of the commission.

(c) The vice chairman shall act as presiding officer in the absence of the chairman and shall perform such other duties as the chairman may direct.

(d) The commission shall be provided with an executive secretary by the licensing agency. The person provided may not be a member of the commission.

(e) The executive secretary, through the licensing agency, shall:

- (1) notify all members of meetings;
- (2) keep a record of all meetings of the commission, votes taken by the commission, and other proceedings, transactions, communications, official acts, and records of the commission; and
- (3) perform other duties as the chairman directs.

*As added by Acts 1977, P.L.270, SEC.1. Amended by Acts 1980, P.L.163, SEC.3; Acts 1981, P.L.222, SEC.37; P.L.132-1984, SEC.15.*

#### **IC 25-6.1-2-4 Per diem and expense**

Sec. 4. Each member of the commission shall receive a salary per diem for each day actually engaged in service of the commission, together with reimbursement for necessary travel expense incurred in the performance of his strictly official duties, in accordance with travel policies and procedures established by the department of administration and

the state budget agency. The compensation and expense of said commission shall be paid out of the general fund of the state upon appropriation being made therefor in the manner provided by law for the making of such appropriations.

*As added by Acts 1977, P.L.270, SEC.1.*

#### **IC 25-6.1-2-5 Powers**

Sec. 5. (a) The commission is empowered to do the following:

- (1) Administer and enforce the provisions of this article.
- (2) Adopt such rules in accordance with IC 4-22-2 and such forms as are necessary or appropriate for the administration and the effective and efficient enforcement of this article.
- (3) Issue, suspend, and revoke licenses in accordance with this article.
- (4) Subject to IC 25-1-7, investigate complaints concerning licensees or persons the commission has reason to believe should be licensees, specifically including complaints respecting failure to comply with this article or the rules, and to take appropriate action pursuant to IC 25-1-11.
- (5) Bring actions, in the name of the state of Indiana, in an appropriate circuit court in order to enforce compliance with this article or the rules by restraining order or injunction.
- (6) Hold public hearings on any matters for which a hearing is required under this article and to have all powers granted in IC 4-21.5.
- (7) Adopt a seal and, through its secretary, certify copies.

(b) The licensing agency shall provide necessary employees and consultants to enforce this article.

(c) The commission shall adopt rules under IC 4-22-2 establishing the following:

- (1) Standards for competent:
  - (A) practice as an auctioneer; and
  - (B) operation of an auction company or auction house.
- (2) Continuing education requirements for an individual who has reactivated an auctioneer license with less than twelve (12) months remaining in the licensing period.

*As added by Acts 1977, P.L.270, SEC.1. Amended by Acts 1980, P.L.163, SEC.4; Acts 1981, P.L.222, SEC.38; P.L.132-1984, SEC.16; P.L.7-1987, SEC.112; P.L.1-1991, SEC.163; P.L.238-1995, SEC.1.*

*As added by Acts 1977, P.L.270, SEC.1. Amended by Acts 1980, P.L.163, SEC.4; Acts 1981, P.L.222, SEC.38; P.L.132-1984, SEC.16; P.L.7-1987, SEC.112; P.L.1-1991, SEC.163; P.L.238-1995, SEC.1.*

#### **IC 25-6.1-2-6 Fees; disposal**

Sec. 6. All fees received by the commission under this article shall be paid to the state treasurer to be placed by him in the general fund of the state. All records of such fees received by the commission shall be available for the inspection of the general public.  
*As added by Acts 1977, P.L.270, SEC.1.*

### **IC 25-6.1-3**

#### **Chapter 3. Licensing**

##### **IC 25-6.1-3-1 Coverage**

Sec. 1. (a) Except as provided in subsection (b) of this section, no individual may act as an auctioneer and no person may operate an auction house or an auction company without obtaining and having in full force and effect a valid license issued by the commission in accordance with this chapter.

(b) The requirements of this article do not apply to:

- (1) An auction of goods or real estate conducted exclusively by individuals who personally own such goods or real estate and who did not acquire such goods or real estate for resale.
- (2) An auction conducted by or under the direction of any public authority.
- (3) An auction conducted pursuant to any judicial order or to the settlement of a decedent's estate.
- (4) A sale conducted by or on behalf of any political party, church, charitable corporation or association if the individual conducting the sale receives no compensation and does not, by advertising or otherwise, hold himself out as being available to engage in the sale of goods or real estate at auction.

*As added by Acts 1977, P.L.270, SEC.1. Amended by P.L.8-1993, SEC.374.*

##### **IC 25-6.1-3-2 Auctioneer license**

Sec. 2. (a) Every individual, before acting as an auctioneer, must obtain a license from the commission.

(b) An applicant for a license must:

- (1) be at least eighteen (18) years of age;
- (2) have completed at least eighty (80)

actual hours of auction instruction from a course provider approved by the commission;

(3) not have a conviction for:

(A) an act which would constitute a ground for disciplinary sanction under IC 25-1-11; or

(B) a felony that has a direct bearing on the applicant's ability to practice

competently.

(c) Auction instruction required under subsection (b) must provide the applicant with knowledge of all of the following:

- (1) The value of real estate and of various goods commonly sold at an auction.
- (2) Bid calling.
- (3) Sale preparation, sale advertising, and sale summary.
- (4) Mathematics.
- (5) The provisions of this article and the commission's rules.
- (6) Any other subject matter approved by the commission.

(d) An individual seeking an initial license as an auctioneer under this article shall file with the commission a completed application on the form prescribed by the commission. When filing an application for an auctioneer license, each individual shall pay a nonrefundable examination fee established by the commission under IC 25-1-8-2.

(e) When applying for a renewal of an auctioneer license, each individual shall do the following:

(1) Apply in a manner required by the commission, including certification by the applicant that the applicant has complied with the requirements of IC 25-6.1-9-8, unless the commission has granted the applicant a waiver under IC 25-6.1-9-9.

(2) Pay the license fee prescribed by section 5 of this chapter.

(f) Upon the receipt of a completed application for an initial or a renewal license, the commission shall examine the application and verify the information contained therein.

(g) An applicant who is seeking an initial license must pass an examination approved by the commission that covers subjects and topics of knowledge required to practice as an auctioneer. The commission shall hold examinations as the commission may prescribe.

(h) The commission shall issue an auctioneer's license, in such form as it may prescribe, to each individual who meets all of the requirements for licensing and pays the appropriate fees.

(i) Auctioneer licenses shall be issued for a term of four (4) years. A license expires at midnight on the date established by the licensing agency under IC 25-1-6-4 and every fourth year thereafter, unless renewed before that date. If the license has expired, it may be reinstated not more than one (1) year after the date it expired upon the payment of the renewal fee plus the reinstatement fee established under IC 25-1-8-7 and submission of proof that the applicant has complied with the continuing education requirement. If the license has expired for a period of more than

one (1) year, the person must file an application and take the required examination. However, an applicant for reinstatement of an expired license is not required to complete the initial eighty (80) hour education requirement under this section in order to reinstate the expired license. The holder of an expired license shall cease to display the original wall certificate at the holder's place of business and shall return the wall certificate to the commission upon notification by the commission of the expiration of the holder's license.

(j) The commission may waive the requirement that a nonresident applicant pass an examination and that the nonresident submit written statements by two (2) individuals, if the nonresident applicant:

(1) is licensed to act as an auctioneer in the state of the applicant's domicile;

(2) submits with the application a duly certified letter of certification issued by the licensing board of the applicant's domiciliary state;

(3) is a resident of a state whose licensing requirements are substantially equal to the requirements of Indiana;

(4) is a resident of a state that grants the same privileges to the licensees of Indiana; and

(5) includes with the application an irrevocable consent that actions may be commenced against the applicant. The consent shall stipulate that service of process or pleadings on the commission shall be taken and held in all courts as valid and binding as if service of process had been made upon the applicant personally within this state. If any process or pleading mentioned in this subsection is served upon the commission, it shall be by duplicate copies. One (1) of the duplicate copies shall be filed in the office of the commission and one (1) shall be immediately forwarded by the commission by registered or certified mail to the applicant against whom the process or pleadings are directed.

(k) The commission may enter into a reciprocal agreement with another state concerning nonresident applicants.

(l) The commission may, for good cause shown, upon the receipt of an application for a license, issue a temporary permit for such reasonable period of time, not to exceed one (1) year, as the commission deems appropriate. A temporary permit has the same effect as a license and entitles and subjects the permittee to the same rights and obligations as if the individual had obtained a license.

(m) An applicant for a temporary permit must do the following:

(1) File an examination application.

(2) Pass the examination at one (1) of the next two (2) regularly scheduled examinations.

(n) An individual who does not pass the examination required under subsection (m) may not be issued a temporary permit.

*As added by Acts 1977, P.L.270, SEC.1. Amended by Acts 1980, P.L.163, SEC.5; Acts 1981, P.L.222, SEC.39; Acts 1982, P.L.113, SEC.32; P.L.3-1990, SEC.87; P.L.214-1993, SEC.14; P.L.238-1995, SEC.2; P.L.23-2003, SEC.3; P.L.194-2005, SEC.19.*

### **IC 25-6.1-3-3 Auction house license**

Sec. 3. (a) This section does not apply to an organization that operates a wholesale dealer automobile auction.

(b) Every person, before operating an auction house, must obtain a license from the commission for that auction house.

(c) Except as provided in subsection (d), before applying for a license from the commission to operate an auction house, the following must obtain a license as an auctioneer as provided in section 2 of this chapter:

(1) An individual who seeks to operate an auction house.

(2) One (1) or more individuals designated by an organization that seeks to operate an auction house.

(d) Subsection (c) does not apply to:

(1) a person that holds a valid license for an auction house as of June 30, 1998; or

(2) a person that holds a valid renewal of a license described in subdivision (1).

(e) Every applicant seeking to operate an auction house shall file with the commission a completed application on a form provided by the commission for a license for each auction house to be operated by that person. Each application shall be accompanied by the license fee prescribed by section 5 of this chapter and a surcharge described in IC 25-6.1-8-2.

(f) Upon the receipt of a completed application for an initial or a renewal license, the commission shall examine the application and may verify the information contained therein.

(g) If the commission determines that the application has been completed and that the statements made therein by the applicant are true, the commission shall issue a license, in such form as it may prescribe, for such auction house.

(h) Auction house licenses shall expire at midnight, February 28, 2004, and every fourth year thereafter. A renewal license with a term of four (4) years shall be issued if an application is for a renewal license.

*As added by Acts 1977, P.L.270, SEC.1. Amended by Acts 1980, P.L.163, SEC.6; P.L.3-1990, SEC.88;*

*P.L.214-1993, SEC.15; P.L.84-1998, SEC.19;  
P.L.23-2003, SEC.4.*

#### **IC 25-6.1-3-4 Auction company license**

Sec. 4. (a) Every person other than:  
(1) an individual who is a licensed auctioneer; or  
(2) an individual who has a licensed auction house; who is seeking to operate as an auction company must obtain a license from the commission. Notwithstanding the fact that an individual who is a licensed auctioneer or an individual who has a licensed auction house also has an interest in an organization, every organization which seeks to operate an auction company must obtain a license for that auction company.

(b) Every such person shall file with the commission a completed application on the form prescribed by the commission. Each application shall be accompanied by the license fee prescribed by section 5 of this chapter and a surcharge described in IC 25-6.1-8-2.

(c) Upon the receipt of a completed application for an initial or renewal license, the commission shall examine the application and verify the information contained therein.

(d) Upon a determination by the commission that an application is completed and duly verified, the commission shall issue an auction company license, in such form as it may prescribe, to the applicant.

(e) Auction company licenses shall expire at midnight, February 28, 2004, and every fourth year thereafter. A renewal license with a term of four (4) years shall be issued if the application is for a renewal license.

(f) Any individual who wishes to operate an auction company, and who is exempt under subsection (a) from obtaining an auction company license, shall, on February 28, 1978, or on the date on which the individual begins to operate an auction company, whichever is later, notify the secretary of the commission, in a writing signed by the individual, that the individual is operating as an auction company or as more than one (1) auction company. The individual shall specify in such written notification, the trade or business name, and the address of the principal place of business, of each auction company which the individual operates. Whenever an individual to whom this subsection applies shall discontinue the operation of an auction company theretofore operated by the individual, or shall change its address or trade or business name, the individual shall promptly notify the secretary of the commission of such discontinuance or change, in

a writing signed by the individual.  
*As added by Acts 1977, P.L.270, SEC.1. Amended by Acts 1980, P.L.163, SEC.7; P.L.3-1990, SEC.89; P.L.214-1993, SEC.16; P.L.23-2003, SEC.5.*

#### **IC 25-6.1-3-5 License fee; surcharge**

Sec. 5. At the time of obtaining a license under this chapter, the licensee shall pay:

(1) the license fee established by the commission under IC 25-1-8-2; and

(2) a surcharge under IC 25-6.1-8 for deposit in the auctioneer recovery fund.

*As added by Acts 1977, P.L.270, SEC.1. Amended by P.L.256-1987, SEC.2; P.L.23-2003, SEC.6; P.L.194-2005, SEC.20*

#### **IC 25-6.1-3-6 License requirements; "auction house" defined**

Sec. 6. All auctions arranged by or through an auction house or an auction company shall be conducted exclusively by individuals who are licensed as auctioneers under this chapter. For purposes of this subsection only, the term "auction house" includes a sale barn or sale pavilion that is used exclusively for the auctioning of livestock and is licensed by the Indiana state board of animal health.

*As added by Acts 1977, P.L.270, SEC.1.*

#### **IC 25-6.1-3-7 Display of license**

Sec. 7. Display of License. Every person licensed under this article shall display his license or a certified copy of it issued by the commission in the full and unobstructed view of the public at his principal place of business.

*As added by Acts 1977, P.L.270, SEC.1.*

#### **IC 25-6.1-3-8 Duplicates and certified copies of licenses; fees**

Sec. 8. (a) The commission may charge the fee established under IC 25-1-8-2 as the cost of providing duplicate licenses to replace lost or destroyed licenses.

(b) The commission may charge a fee established under IC 25-1-8-2 for the cost of verifying a license to another state.

*As added by Acts 1977, P.L.270, SEC.1. Amended by P.L.235-1995, SEC.2; P.L.194-2005, SEC.21.*

#### **IC 25-6.1-3-9 Cease and desist order**

Sec. 9. (a) When the commission determines that a person not licensed under this article is engaged in or is believed to be engaged in activities for which a license is required under this article, the commission may issue an order to that person requiring him to



show cause why he should not be ordered to cease and desist from such activities. The show cause order shall set forth a time and place for a hearing at which the affected person may appear and show cause as to why he should not be subject to licensing under this article.

(b) If the commission, after a hearing, determines that the activities in which the person is engaged are subject to licensing under this article, the commission may issue a cease and desist order which shall describe the person and activities which are the subject of the order.

(c) A cease and desist order issued under this section shall be enforceable in the circuit courts of this state.

*As added by Acts 1977, P.L.270, SEC.1.*

#### **IC 25-6.1-3-10 Denial of license; rights and remedies**

Sec. 10. Any person who makes proper and complete application to the commission and who is denied a license under this article has all of the rights and remedies prescribed in IC 4-21.5.

*As added by Acts 1977, P.L.270, SEC.1. Amended by P.L.7-1987, SEC.113.*

#### **IC 25-6.1-4**

##### **Chapter 4. Suspension and Revocation of Licenses**

#### **IC 25-6.1-4-1 Repealed**

*(Repealed by Acts 1981, P.L.222, SEC.296.)*

#### **IC 25-6.1-4-1.1 Repealed**

*(Repealed by P.L.214-1993, SEC.91.)*

#### **IC 25-6.1-4-2 Repealed**

*(Repealed by Acts 1981, P.L.222, SEC.296.)*

#### **IC 25-6.1-4-3 Repealed**

*(Repealed by Acts 1981, P.L.222, SEC.296.)*

#### **IC 25-6.1-4-4 Hearing**

Sec. 4. All hearings held under this chapter shall be held in accordance with IC 4-21.5-3.

*As added by Acts 1977, P.L.270, SEC.1. Amended by P.L.7-1987, SEC.114.*

#### **IC 25-6.1-5 Repealed**

*(Repealed by P.L.256-1987, SEC.5.)*

#### **IC 25-6.1-6**

##### **Chapter 6. Licensee Obligations**

#### **IC 25-6.1-6-1 Performance by auctioneer**

Sec. 1. Performance by Auctioneer. In performing the duties of an auctioneer, every auctioneer shall follow all reasonable requests of the owner or consignor of the goods or real estate being sold at the auction, shall perform his duties so that the highest or most favorable offer made by a member of his audience is accepted, and shall otherwise perform his duties in accordance with the highest standards of the auctioneering profession.

*As added by Acts 1977, P.L.270, SEC.1.*

#### **IC 25-6.1-6-2 Accounting and paying over**

Sec. 2. Accounting and Paying Over. (a) Every licensee, within thirty (30) days after the sale transaction, shall account to, or see to an accounting for, those persons who own or who are acting as consignor of goods or real estate which is the subject of an auction engaged in or conducted by such licensee or upon such licensee's premises.

(b) Every licensee, within thirty (30) days after a sale transaction of goods and within a reasonable time after a real estate sale transaction, shall pay over, or see to the paying over of, all monies and proceeds due to the owner or the consignor of goods or real estate which was the subject of an auction engaged in or conducted by such licensee or upon such licensee's premises.

*As added by Acts 1977, P.L.270, SEC.1. Amended by Acts 1980, P.L.163, SEC.9.*

#### **IC 25-6.1-6-3 Records and accounts**

Sec. 3. Records and Accounts. Each licensee shall keep and maintain in a place of safety for a period of not less than two (2) years complete and correct records and accounts pertaining to that licensee's licensed activity, including the name and address of the owner or consignor of all goods and real estate involved in such activities, a description of such goods and real estate, the terms and conditions of the acceptance and sale of such goods and real estate, and accounts of all monies received and paid out, whether on the licensee's own behalf or as agent, as a result of such activities.

*As added by Acts 1977, P.L.270, SEC.1.*

#### **IC 25-6.1-6-4 Written contracts**

Sec. 4. Written Contracts. Except with respect to goods sold through an auction house, no licensee shall sell goods or real estate at auction until the auctioneer or auction company involved has first entered into a written contract with the owner or consignor of such goods or real estate, which contract sets forth the terms and conditions upon which such auctioneer or auction company accepts the goods or real estate for sale. A copy of every written contract

shall be retained for a period of two (2) years from the date of the auction.

*As added by Acts 1977, P.L.270, SEC.1. Amended by Acts 1980, P.L.163, SEC.10.*

#### **IC 25-6.1-6-5 Advertising**

Sec. 5. Advertising. All advertisements of auctions shall disclose:

- (1) the auctioneer's name and the name of the auction house or the auction company involved; and
- (2) the name of the owner or consignor of goods or real estate to be sold or the fact that the goods are being sold on general consignment.

*As added by Acts 1977, P.L.270, SEC.1. Amended by Acts 1980, P.L.163, SEC.11.*

#### **IC 25-6.1-6-6 Trust accounts**

Sec. 6. (a) Each licensee:

- (1) shall keep in one (1) or more trust accounts (interest or noninterest bearing) all funds belonging to others that come into the possession of the licensee and are held by the licensee for more than twenty-four (24) hours after the funds become available for use by the licensee; and
- (2) shall clearly identify any account containing those funds as a trust account. The trust accounts shall contain all auction proceeds not yet disbursed and all other funds belonging to others.

(b) The licensee shall not use any trust account for the deposit of any personal funds or other business funds and shall keep a detailed record of the funds and any interest accrued in each trust account that identifies the amount of funds held for each beneficiary. Any interest earned shall be held for the beneficiary.

(c) Upon the death or termination of a licensee or the expiration or revocation of the licensee's license, the commission shall take custody of each trust account and may appoint a successor trustee to protect and distribute the proceeds of that account.

*As added by P.L.256-1987, SEC.3.*

#### **IC 25-6.1-7**

##### **Chapter 7. Penalties**

#### **IC 25-6.1-7-1 Failure to be licensed**

Sec. 1. (a) An individual may not act as an auctioneer without first having obtained and having in full force and effect the license required under this article.

(b) Except as provided in IC 25-6.1-3-3, a person may not operate an auction house without having

obtained and having in full force and effect the license for the auction house as required under this article.

(c) A person (except a person who shall have become exempt, by reason of compliance with the provisions of IC 25-6.1-3-4, from the auction company licensing requirements of this article) may not operate an auction company without first having obtained and having in full force and effect the auction company license required under this article.

(d) A person who knowingly or intentionally violates the provisions of this section commits a Class A misdemeanor.

*As added by Acts 1977, P.L.270, SEC.1. Amended by P.L.84-1998, SEC.20; P.L.1-1999, SEC.57.*

#### **IC 25-6.1-7-2 Other violations**

Sec. 2. A person who violates or fails to follow any provision of this article for which a specific penalty is not provided commits a Class A misdemeanor.  
*As added by Acts 1977, P.L.270, SEC.1.*

#### **IC 25-6.1-7-3 Injunctions**

Sec. 3. The commission may maintain an action in the name of the state of Indiana to enjoin any person from engaging, without a license issued under this article (or pursuant to an exemption defined in this article), in any activity for which a license is required under this article.

*As added by Acts 1977, P.L.270, SEC.1.*

#### **IC 25-6.1-7-4 Affidavit, information or indictment; sufficiency of charge**

Sec. 4. In charging any person in an affidavit, information, or indictment with a violation of this article by carrying on (without a license obtained under, or pursuant to an exemption defined in, this article) an activity for the carrying-on of which a license issued under, or an exemption defined in, this article is required, it shall be sufficient to charge that the person did, upon a certain day and in a certain county, engage in such an activity and that he or it did not have a license to do so or an exemption (defined in this article) permitting him or it to do so. No further or more particular facts need be averred concerning the matter.

*As added by Acts 1977, P.L.270, SEC.1.*

#### **IC 25-6.1-8**

##### **Chapter 8. Auctioneer Recovery Fund**

#### **IC 25-6.1-8-1 Establishment of fund; administration**

Sec. 1. (a) The auctioneer recovery fund is established for the purpose set out in this chapter.

The fund shall be administered by the auctioneer commission.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(c) Money in the fund at the end of a fiscal year does not revert to the state general fund, except as provided in section 2.1 of this chapter.

*As added by P.L.256-1987, SEC.4. Amended by P.L.143-1990, SEC.1.*

#### **IC 25-6.1-8-2 Surcharge assessment**

Sec. 2. (a) If the total amount in the auctioneer recovery fund (including principal and interest) is less than three hundred sixty thousand dollars (\$360,000) on June 30 in an odd-numbered year after the payment of all claims and expenses, the auctioneer commission shall assess a surcharge according to the following formula in order to maintain the fund at an approximate level of four hundred thousand dollars (\$400,000):

STEP ONE: Determine the amount remaining in the fund on June 30 of the current year after all expenses and claims have been paid.

STEP TWO: Subtract the amount determined under STEP ONE from four hundred thousand dollars (\$400,000).

STEP THREE: Determine the number of licensees who had licenses in effect on June 30 of the current year.

STEP FOUR: Divide the number determined under STEP TWO by the number determined under STEP THREE.

(b) The auctioneer commission shall assess the surcharge described in subsection (a) against each licensee who:

- (1) receives an initial license;
- (2) receives a renewal license; or
- (3) receives a temporary permit.

(c) The auctioneer commission shall assess the surcharge described in subsection (a) for the two (2) year period beginning on July 1 of the current year through June 30 of the next odd-numbered year.

(d) The surcharge assessed under this section is in addition to any other fee under this article.

*As added by P.L.256-1987, SEC.4. Amended by P.L.143-1990, SEC.2; P.L.214-1993, SEC.17.*

#### **IC 25-6.1-8-2.1 Reversion of excess amount in fund**

Sec. 2.1. If the total amount in the auctioneer recovery fund (including principal and interest) exceeds five hundred fifty thousand dollars

(\$550,000) at the end of a state fiscal year after the payment of all claims and expenses, the amount in excess of five hundred fifty thousand dollars (\$550,000) reverts to the state general fund.

*As added by P.L.143-1990, SEC.3.*

#### **IC 25-6.1-8-3 Interest credited; payment of expenses**

Sec. 3. Any interest earned on investment of money in the auctioneer recovery fund shall be credited at least annually to the fund. No money may be appropriated from the state general fund for payment of any expenses incurred under this chapter, and none of these expenses may be charged against the state.

*As added by P.L.256-1987, SEC.4.*

#### **IC 25-6.1-8-4 Claims against fund; applications; amount of loss; limitation on recovery**

Sec. 4. (a) If any aggrieved person obtains a final judgment in any court against any licensee to recover damages for failure to meet the obligations of a licensee under this article and the rules adopted under this article (with or without findings by the auctioneer commission) that results in an actual cash loss to the aggrieved person, the person may, upon termination of all proceedings including appeals and proceedings supplemental to judgment for collection purposes, file a verified application in the court in which the judgment was entered for an order directing payment out of the auctioneer recovery fund of the amount of actual and direct loss in the transaction that remains unpaid upon the judgment. The amount of actual and direct loss may include court costs but may not include attorney's fees or punitive damages awarded. The amount that may be paid from the auctioneer recovery fund may not exceed twenty thousand dollars (\$20,000) per judgment and an aggregate lifetime limit of fifty thousand dollars (\$50,000) with respect to any one (1) licensee.

(b) This section applies only to a final judgment that awards damages for an act by the licensee described in subsection (a) that arises directly out of any transaction:

- (1) that occurred when the licensee was licensed;
- (2) for which a license was required under IC 25-6.1; and
- (3) that occurred after December 31, 1987.

*As added by P.L.256-1987, SEC.4.*

#### **IC 25-6.1-8-5 Claims against single licensee in excess of dollar limitation; joinder of claims; payment; insufficient funds**

Sec. 5. (a) If the payment in full of two (2) or more pending valid claims that have been filed by aggrieved persons against a single licensee would exceed the fifty thousand dollars (\$50,000) limit set forth in section 4 of this chapter, the fifty thousand dollars (\$50,000) shall be distributed among the aggrieved persons in the ratio that their respective claims bear to the aggregate of all valid claims or in any other manner that a court of record may determine equitable. This money shall be distributed among the persons entitled to share in it without regard to the order of priority in which their respective judgments have been obtained or their claims have been filed.

(b) Upon petition of the commission, the court may require all claimants and prospective claimants against one (1) licensee to be joined in one (1) action, to the end that the respective rights of all the claimants to the commission may be equitably adjudicated and settled.

(c) On June 30 and December 31 of each year, the auctioneer commission shall identify each claim that the court orders to be paid during the six (6) month period that ended on that day. The commission shall pay the part of each claim that is so identified within fifteen (15) days after the end of the six (6) month period in which the claim is ordered paid. However, if the balance in the fund is insufficient to pay the full payable amount of each claim that is ordered to be paid during a six (6) month period, the commission shall pay a prorated portion of each claim that is ordered to be paid during the period. Any part of the payable amount of a claim left unpaid due to the prorating of payments under this subsection must be paid (subject to the fifty thousand dollar (\$50,000) limit described in section 4 of this chapter) before the payment of claims ordered to be paid during the following six (6) month period.

*As added by P.L.256-1987, SEC.4.*

#### **IC 25-6.1-8-6 Agents for service of process**

Sec. 6. Any auctioneer, auction company, or auction house that is licensed or renews a license under this article after December 31, 1987, and upon whom personal service cannot be made with reasonable diligence shall be considered to have appointed the commission as the licensee's agent for service of process for purposes of actions filed under section 4 of this chapter for recovery from the auctioneer recovery fund. Service of process under this section shall be made as nearly as practicable in the manner prescribed by the Indiana Rules of Trial Procedure for service on corporations.

*As added by P.L.256-1987, SEC.4.*

#### **IC 25-6.1-8-7 Limitation of actions; notice of commencement of action**

Sec. 7. An order for payment from the auctioneer recovery fund may not be issued unless the action to recover from the auctioneer recovery fund was commenced within one (1) year after the termination of all proceedings against the licensee for failure to meet the obligations of a licensee under this article and the rules adopted under this article, including appeals and proceedings supplemental to judgment. When any person commences an action for a judgment that may result in an order for payment from the fund, the person shall notify the commission in writing of the commencement of the action.

*As added by P.L.256-1987, SEC.4.*

#### **IC 25-6.1-8-8 Commission as defendant; hearing; order of payment of claim**

Sec. 8. When any person files an application for an order directing payment from the auctioneer recovery fund, the commission shall be made a party defendant to the proceedings. The court shall conduct a hearing on the application, and it may issue an order directing payment out of the auctioneer recovery fund, as provided in section 9 of this chapter, subject to the limitation of section 4 of this chapter, if the court finds:

- (1) that there is no collusion between the judgment creditor and the judgment debtor;
- (2) that the judgment creditor is making application not more than one (1) year after the termination of all proceedings in connection with the judgment, including appeals and proceedings supplemental to judgment for collection purposes;
- (3) that the judgment creditor has caused to be issued a writ of execution on the judgment and the officer executing the writ has made a return showing that no personal or real property of the judgment debtor liable to be levied upon in satisfaction of the judgment could be found or that the amount realized on the sale under the execution was insufficient to satisfy the judgment;
- (4) that the judgment creditor has diligently pursued the creditor's remedies against all the judgment debtors and all other persons liable to the creditor in the transaction for which the creditor seeks recovery from the auctioneer recovery fund;
- (5) that the failure to meet the obligations of a licensee under this article and the rules adopted under this article arose directly out of a transaction that occurred when the judgment debtor was licensed and acted in a

capacity for which a license is required under this article and that the transaction occurred after December 31, 1987; and (6) that, in the event of a default judgment or a judgment entered upon stipulation of the parties, the judgment debtor's acts constituted failure to meet the obligations of a licensee under this article and the rules adopted under this article.

*As added by P.L.256-1987, SEC.4.*

#### **IC 25-6.1-8-9 Payment of claim**

Sec. 9. Upon a final order of the court directing that payment be made out of the auctioneer recovery fund, the commission shall, subject to sections 4 through 5 of this chapter, make the payment out of the auctioneer recovery fund as provided in section 5 of this chapter.

*As added by P.L.256-1987, SEC.4.*

#### **IC 25-6.1-8-10 Suspension of judgment debtor's license; repayment by licensee; interest**

Sec. 10. If the commission is required to make any payment from the auctioneer recovery fund in settlement of a claim or toward the satisfaction of a judgment under this chapter, the commission shall suspend the judgment debtor's license. The licensee is not eligible to be licensed again as either an auctioneer, auction company, or auction house until the licensee has repaid in full the amount paid from the auctioneer recovery fund with interest of twelve percent (12%) per annum.

*As added by P.L.256-1987, SEC.4.*

#### **IC 25-6.1-8-11 Subrogation**

Sec. 11. When, upon order of any court, the commission has caused payment to be made from the auctioneer recovery fund to a judgment creditor, the commission is subrogated to the rights of the judgment creditor with respect to the amount paid.

*As added by P.L.256-1987, SEC.4.*

#### **IC 25-6.1-8-12 Expenditure of interest**

Sec. 12. Subject to the approval of the state budget agency, the auctioneer commission may expend the interest earned by the auctioneer recovery fund for publications that provide:

- (1) information concerning the commission's activities and administrative rulings; and
- (2) other educational information concerning the practice of auctioneering.

*As added by P.L.256-1987, SEC.4.*

#### **IC 25-6.1-8-13 Attorney general' assistance to commission; expenses**

Sec. 13. (a) The office of the attorney general shall provide the staff assistance necessary to:

- (1) enable the auctioneer commission to perform its duties under this chapter; and
- (2) enforce this chapter.

(b) Expenses incurred by the office of the attorney general under this section shall be paid from the auctioneer recovery fund.

*As added by P.L.256-1987, SEC.4.*

### **IC 25-6.1-9**

#### **Chapter 9. Continuing Education**

*Note: This version of section effective until 3-1-2004. See also following version of this section, effective 3-1-2004*

#### **IC 25-6.1-9-1 Continuing education required for license renewal**

Sec. 1. (a) Except as provided in sections 7 and 9 of this chapter, an individual who applies for license renewal under IC 25-6.1-3-2 must complete twelve (12) actual hours of continuing education from course providers that are approved by the commission.

(b) The continuing education requirement is as follows:

- (1) At least six (6) actual hours of courses in any of the following core subjects:

- (A) Indiana rules and statutes governing auctioneering.
- (B) Federal statutes governing auctioneering.
- (C) Auctioneering ethics.
- (D) Escrow and trust funds.
- (E) Contracts.
- (F) Any other subject matter approved by the commission.

- (2) At least six (6) actual hours of courses in any of the following elective subjects:

- (A) Agency.
- (B) Business courses related to auctioneering.
- (C) Auction management.
- (D) Bid calling.
- (E) Public speaking.
- (F) Advertising.
- (G) Specialty auction topics.
- (H) Any other subject matter approved by the commission.

*As added by P.L.238-1995, SEC.3.*

### **IC 25-6.1-9-1**

#### **Continuing education required for license renewal**

*Note: This version of section effective 3-1-2004. See also preceding version of this section, effective until 3-1-2004.*

Sec. 1. (a) Except as provided in sections 7 and 9 of this chapter, an individual who applies for license renewal under IC 25-6.1-3-2 must complete sixteen (16) actual hours of continuing education every four (4) years from course providers that are approved by the commission.

(b) The continuing education requirement is as follows:

(1) At least six (6) actual hours of courses in any of the following core subjects:

- (A) Indiana rules and statutes governing auctioneering.
- (B) Federal statutes governing auctioneering.
- (C) Auctioneering ethics.
- (D) Escrow and trust funds.
- (E) Contracts.
- (F) Any other subject matter approved by the commission.

(2) At least ten (10) actual hours of courses in any of the following elective subjects:

- (A) Agency.
- (B) Business courses related to auctioneering.
- (C) Auction management.
- (D) Bid calling.
- (E) Public speaking.
- (F) Advertising.
- (G) Specialty auction topics.
- (H) Any other subject matter approved by the commission.

*As added by P.L.238-1995, SEC.3. Amended by P.L.23-2003, SEC.7.*

#### **IC 25-6.1-9-2 Requirements for sponsor approval**

Sec. 2. To obtain approval as a continuing education sponsor, a sponsor must do the following:

- (1) Provide the commission information on courses, curriculum, and facilities as determined by the commission.
- (2) Provide each participant who successfully completes an approved course a certificate that includes the following:
  - (A) The name of the participant.
  - (B) The name, address, and signature of the sponsor.
  - (C) The number of approved actual course hours.
  - (D) Any other information required by the commission.
- (3) Meet any standard that the commission adopts by rule.

*As added by P.L.238-1995, SEC.3.*

#### **IC 25-6.1-9-3 Sponsor record**

Sec. 3. A continuing education sponsor that has received approval under section 2 of this chapter must maintain records for five (5) years of the participants who successfully complete and pass each course. If the sponsor ceases operations, the owner shall place the records in the care of a custodian that is approved by the commission.

*As added by P.L.238-1995, SEC.3.*

#### **IC 25-6.1-9-4 Expiration and renewal of sponsor approval**

Sec. 4. (a) The approval for a sponsor expires February 28 each even-numbered year.

(b) A sponsor must submit:

(1) a letter requesting renewal of approval; and

(2) the renewal fee;

at least thirty (30) days before the sponsor's approval expires.

*As added by P.L.238-1995, SEC.3.*

#### **IC 25-6.1-9-5 Inspection of sponsor's records and facilities**

Sec. 5. The commission may inspect an approved sponsor's records and facilities.

*As added by P.L.238-1995, SEC.3.*

#### **IC 25-6.1-9-6 Advertisements related to courses offered**

Sec. 6. (a) A person may advertise that the person's course is approved by the commission and fulfills the requirements of the commission.

(b) A person may not advertise that the sponsor or the sponsor's course is required or recommended by the commission.

*As added by P.L.238-1995, SEC.3.*

#### **IC 25-6.1-9-7 Exemption**

Sec. 7. A licensee who is initially licensed in the fourth year of a renewal period is exempt from the continuing education requirement under this chapter for that renewal period.

*As added by P.L.238-1995, SEC.3. Amended by P.L.194-2005, SEC.22.*

#### **IC 25-6.1-9-8 Application**

Sec. 8. An applicant for renewal must certify on the application that the applicant:

(1) has complied with the continuing education requirement;

(2) is exempt from the continuing education requirement because the individual has been licensed for less than one (1) year; or

(3) has not complied with the continuing education requirement but is seeking a waiver under section 9 of this chapter.

*As added by P.L.238-1995, SEC.3.*

#### **IC 25-6.1-9-9 Waiver**

Sec. 9. The commission may grant an applicant a waiver from all or part of the continuing education requirement for the renewal period if the applicant was not able to fulfill the requirement due to a hardship that resulted from any of the following conditions:

- (1) Service in the armed forces of the United States during a substantial part of the renewal period.
- (2) An incapacitating illness or injury.
- (3) Other circumstances determined by the commission.

*As added by P.L.238-1995, SEC.3. Amended by P.L.33-1999, SEC.1.*

#### **IC 25-6.1-9-10 Inactive license**

Sec. 10. (a) The commission may grant an applicant an inactive auctioneer license if the auctioneer submits a written application to the commission requesting that the auctioneer license be classified as inactive.

(b) An auctioneer granted an inactive license under this section may not perform an act that requires an auctioneer license.

(c) If a disciplinary or suspension hearing is pending against an auctioneer, the individual may not be granted an inactive license without the approval of the commission.

(d) An individual granted an inactive license must continue to pay the same fees that a licensee is required to pay.

(e) An inactive licensee is not required to complete the continuing education requirement while the license is inactive.

(f) An individual may reinstate an inactive auctioneer license if the individual:

- (1) submits a written application to the commission requesting that the inactive auctioneer license be classified as active; and
- (2) fulfills the applicable continuing education requirement for the licensure period during which the license is reinstated.

*As added by P.L.238-1995, SEC.3.*

#### **IC 25-1-11**

### **Chapter 11. Professional Licensing Standards of Practice**

#### **IC 25-1-11-1 "Board" defined**

Sec. 1. As used in this chapter, "board" means any of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) State board of cosmetology examiners (IC 25-8-3-1).
- (7) State board of registration of land surveyors (IC 25-21.5-2-1).
- (8) State board of funeral and cemetery service (IC 25-15-9).
- (9) State board of registration for professional engineers (IC 25-31-1-3).
- (10) Indiana plumbing commission (IC 25-28.5-1-3).
- (11) Indiana real estate commission (IC 25-34.1-2-1).
- (12) Real estate appraiser licensure certification board (IC 25-34.1-8).
- (13) Private detectives licensing board (IC 25-30-1-5.1).
- (14) Manufactured home installer licensing board (IC 25-23.7).

*As added by P.L.214-1993, SEC.1. Amended by P.L.2-1995, SEC.93; P.L.234-1995, SEC.5; P.L.82-2000, SEC.6; P.L.162-2002, SEC.6.*

#### **IC 25-1-11-2 "Practitioner" defined**

Sec. 2. As used in this chapter, "practitioner" means a person that holds:

- (1) an unlimited license, certificate, registration, or permit;
- (2) a limited or probationary license, certificate, registration, or permit;
- (3) a temporary license, certificate, registration, or permit;
- (4) an intern permit; or
- (5) an inactive license;

issued by the board regulating a profession.

*As added by P.L.214-1993, SEC.1. Amended by P.L.236-1995, SEC.1.*

#### **IC 25-1-11-3 "License" defined**

Sec. 3. As used in this chapter, "license" includes a license, certificate, registration, or permit.

*As added by P.L.214-1993, SEC.1.*

#### **IC 25-1-11-4 "Person" defined**

Sec. 4. As used in this chapter, "person" means an individual, a partnership, a corporation, or a limited liability company.

*As added by P.L.214-1993, SEC.1. Amended by P.L.236-1995, SEC.2.*

#### **IC 25-1-11-5 Practitioner compliance with professional standards; findings; meriting disciplinary sanctions**

Sec. 5. (a) A practitioner shall comply with the standards established by the board regulating a profession. A practitioner is subject to the exercise of the disciplinary sanctions under section 12 of this chapter if, after a hearing, the board finds that:

- (1) a practitioner has:
  - (A) engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice, including cheating on a licensing examination;
  - (B) engaged in fraud or material deception in the course of professional services or activities; or
  - (C) advertised services or goods in a false or misleading manner;
- (2) a practitioner has been convicted of a crime that has a direct bearing on the practitioner's ability to continue to practice competently;
- (3) a practitioner has knowingly violated a state statute or rule or federal statute or regulation regulating the profession for which the practitioner is licensed;
- (4) a practitioner has continued to practice although the practitioner has become unfit to practice due to:
  - (A) professional incompetence;
  - (B) failure to keep abreast of current professional theory or practice;
  - (C) physical or mental disability; or
  - (D) addiction to, abuse of, or severe dependency on alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely;
- (5) a practitioner has engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;
- (6) a practitioner has allowed the practitioner's name or a license issued under this chapter to be used in connection with an

individual or business who renders services beyond the scope of that individual's or business's training, experience, or competence;

(7) a practitioner has had disciplinary action taken against the practitioner or the practitioner's license to practice in another state or jurisdiction on grounds similar to those under this chapter;

(8) a practitioner has assisted another person in committing an act that would constitute a ground for disciplinary sanction under this chapter; or

(9) a practitioner has allowed a license issued by a board to be:

- (A) used by another person; or
- (B) displayed to the public when the license has expired, is inactive, or has been revoked or suspended.

(b) If an applicant or a practitioner has engaged in or knowingly cooperated in fraud or material deception to obtain a license to practice, including cheating on the licensing examination, the board may rescind the license if it has been granted, void the examination or other fraudulent or deceptive material, and prohibit the applicant from reapplying for the license for a length of time established by the board. An applicant who is aggrieved by a decision of the board under this section is entitled to hearing and appeal rights under the Indiana administrative rules and procedures act (IC 4-21.5).

(c) The board may deny licensure to an applicant who has had disciplinary action taken against the applicant or the applicant's license to practice in another state or jurisdiction or who has practiced without a license in violation of the law.

(d) A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action under subsection (a)(7) or subsection (c).

*As added by P.L.214-1993, SEC.1. Amended by P.L.84-1998, SEC.6; P.L.113-1999, SEC.1.*

#### **IC 25-1-11-7 Auctioneers; grounds for disciplinary sanctions**

Sec. 7. A practitioner licensed to practice auctioneering is subject to the disciplinary sanctions under section 12 of this chapter if, after a hearing, the board finds that the practitioner has failed to:

- (1) account and to make payment under IC 25-6.1-6-2; or
- (2) keep the funds of others separate from the practitioner's own private accounts.

*As added by P.L.214-1993, SEC.1.*



**IC 25-1-11-9.5 Investigations; summary review of complaint against practitioner**

Sec. 9.5. (a) On receipt of a complaint or an information alleging that a person licensed under this chapter has engaged in or is engaging in a practice that jeopardizes the public health, safety, or welfare, the board shall initiate an investigation against the person.

(b) Any complaint filed with the office of the attorney general alleging a violation of this chapter shall be referred to the board for summary review and for its general information and any authorized action at the time of the filing.

(c) The board shall assign one (1) or more of its members to conduct a fact finding investigation as the board considers proper in relation to the complaint.

*As added by P.L.237-1995, SEC.1.*

**IC 25-1-11-10 Physical and mental examination of practitioner**

Sec. 10. The board may order a practitioner to submit to a reasonable physical or mental examination if the practitioner's physical or mental capacity to practice safely and competently is at issue in a disciplinary proceeding.

*As added by P.L.214-1993, SEC.1. Amended by P.L.178-1997, SEC.1.*

**IC 25-1-11-11 Refusal of physical or mental examination; summary suspension**

Sec. 11. Failure to comply with a board order to submit to a physical or mental examination makes a practitioner liable to summary suspension under section 13 of this chapter.

*As added by P.L.214-1993, SEC.1.*

**IC 25-1-11-12 Sanctions for violations**

Sec. 12. (a) The board may impose any of the following sanctions, singly or in combination, if the board finds that a practitioner is subject to disciplinary sanctions under sections 5 through 9 of this chapter:

- (1) Permanently revoke a practitioner's license.
- (2) Suspend a practitioner's license.
- (3) Censure a practitioner.
- (4) Issue a letter of reprimand.
- (5) Place a practitioner on probation status and require the practitioner to:

(A) report regularly to the board upon the matters that are the basis of probation;

(B) limit practice to those areas prescribed by the board;

(C) continue or renew professional

education approved by the board until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or

(D) perform or refrain from performing any acts, including community restitution or service without compensation, that the board considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.

- (6) Assess a civil penalty against the practitioner for not more than one thousand dollars (\$1,000) for each violation listed in sections 5 through 9 of this chapter except for a finding of incompetency due to a physical or mental disability.

(b) When imposing a civil penalty under subsection (a)(6), the board shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the civil penalty within the time specified by the board, the board may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a civil penalty.

(c) The board may withdraw or modify the probation under subsection (a)(5) if the board finds after a hearing that the deficiency that required disciplinary action has been remedied or that changed circumstances warrant a modification of the order.

*As added by P.L.214-1993, SEC.1. Amended by P.L.32-2000, SEC.12.*

**IC 25-1-11-13 Summary suspension of practitioners**

Sec. 13. The board may summarily suspend a practitioner's license for ninety (90) days before a final adjudication or during the appeals process if the board finds that a practitioner represents a clear and immediate danger to the public's health, safety, or property if the practitioner is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the board, and each renewal may be for not more than ninety (90) days.

*As added by P.L.214-1993, SEC.1. Amended by P.L.178-1997, SEC.2.*

**IC 25-1-11-14 Reinstatement of suspended license**

Sec. 14. The board may reinstate a license that has been suspended under this chapter if, after a hearing, the board is satisfied that the applicant is able to practice with reasonable skill, safety, and competency to the public. As a condition of

reinstatement, the board may impose disciplinary or corrective measures authorized under this chapter.  
*As added by P.L.214-1993, SEC.1. Amended by P.L.178-1997, SEC.3.*

#### **IC 25-1-11-15 Reinstatement of revoked license**

Sec. 15. The board may not reinstate a license that has been revoked under this chapter. An individual whose license has been revoked under this chapter may not apply for a new license until seven (7) years after the date of revocation.

*As added by P.L.214-1993, SEC.1.*

#### **IC 25-1-11-16 Consistency of sanctions**

Sec. 16. The board shall seek to achieve consistency in the application of sanctions authorized in this chapter. Significant departures from prior decisions involving similar conduct must be explained in the board's findings or orders.

*As added by P.L.214-1993, SEC.1.*

#### **IC 25-1-11-17 Surrender of practitioner license**

Sec. 17. A practitioner may petition the board to accept the surrender of the practitioner's license instead of having a hearing before the board. The practitioner may not surrender the practitioner's license without the written approval of the board, and the board may impose any conditions appropriate to the surrender or reinstatement of a surrendered license.

*As added by P.L.214-1993, SEC.1.*

#### **IC 25-1-11-18 Costs; practitioners subjected to sanctions**

Sec. 18. A practitioner who has been subjected to disciplinary sanctions may be required by a board to pay the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. These costs are limited to costs for the following:

- (1) Court reporters.
- (2) Transcripts.
- (3) Certification of documents.
- (4) Photo duplication.
- (5) Witness attendance and mileage fees.
- (6) Postage.
- (7) Expert witnesses.
- (8) Depositions.
- (9) Notarizations.

*As added by P.L.214-1993, SEC.1.*

### **TITLE 812 INDIANA AUCTIONEER COMMISSION**

## **ARTICLE 1. GENERAL PROVISIONS**

### **Rule 1. Powers of Commission; Permitted Activities; License Procedure; Fees**

#### **812 IAC 1-1-1 Applications and other forms; availability**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-2-5

Sec. 1. Applications and all other pertinent forms are available at the Indiana Auctioneer Commission, office of the Indiana Professional Licensing Agency, Indiana Government Center, Indianapolis, Indiana, or will be mailed upon request of person seeking to be licensed as auctioneer, auction house, or auction company. (*Indiana Auctioneer Commission; Rule 2; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 166; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1950; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

#### **812 IAC 1-1-2 Time for holding examinations; individual examinations not permitted**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-2-5

Sec. 2. Examinations will be held on the second Wednesday of March, July and November of each year in Indianapolis, Indiana and at such other time and places as the Commission may direct. Individual examinations are not permitted. (*Indiana Auctioneer Commission; Rule 3; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 166; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

#### **812 IAC 1-1-3 Receipt of application before examination; fee; failure to appear at examination**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-3-2

Sec. 3. Completed application forms together with the thirty-five (35) dollars non-refundable examination fee shall be received in the office of the Commission at least thirty (30) days prior to an examination date. The applicant will be advised of the time and place of the examination upon receipt of the completed application. If the applicant does not appear at the initial examination for which he has been scheduled, the applicant will be re-scheduled for the following scheduled examination. If the applicant fails to appear for the following scheduled examination, the application and fee shall be forfeited. (*Indiana Auctioneer Commission; Rule 4; filed Oct 7, 1977, 3:25 p.m.:*

*Rules and Regs. 1978, p. 166; filed Mar 21, 1988, 1:30 p.m.: 11 IR 2869; errata, 11 IR 3921; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236)*

**812 IAC 1-1-3.1 Completing education prior to examination**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-3-2

Sec. 3.1. Auctioneer applicants may apply for the examination prior to completing their eighty (80) hour precicensure education. If they do so, they must submit proof of completing the course by presenting a certificate of completion at the examination site prior to taking the examination. (*Indiana Auctioneer Commission; 812 IAC 1-1-3.1; filed Sep 17, 1998, 3:50 p.m.: 22 IR 453; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

**812 IAC 1-1-4 Confidentiality and security of examinations**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-2-5

Sec. 4. Auctioneer license examinations are confidential tests. Examinations are designed and administered under conditions established to protect the security of the tests. (*Indiana Auctioneer Commission; Rule 5; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 166; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1950; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

**812 IAC 1-1-5 License fee**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-3-2; IC 25-6.1-3-5

Sec. 5. Upon receipt of notice of passing the examination, the applicant shall within thirty (30) days submit his biennial license fee of thirty-five dollars (\$35). Failure to submit such license fee within the above prescribed time shall be deemed sufficient reason for cancellation of said application. (*Indiana Auctioneer Commission; Rule 6; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 166; filed Mar 21, 1988, 1:30 p.m.: 11 IR 2869; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

**812 IAC 1-1-6 Review of examination by applicant; petition for review**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 4-21.5-3; IC 25-6.1-3-2; IC 25-6.1-3-10

Sec. 6. (a) Upon notice of denial of licensure because of failure of an examination, examinees may petition for review concerning the denial of licensure in the manner provided for in IC 4-21.5-3.

(b) Individuals whose petitions for review are granted may review their examination in the commission office (in the offices of the Indiana professional licensing agency) by scheduling an appointment for review with the agency. (*Indiana Auctioneer Commission; Rule 7; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 167; filed Nov 18, 1980, 8:55 a.m.: 4 IR 52; filed Mar 21, 1988, 1:30 p.m.: 11 IR 2869; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1950; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

**812 IAC 1-1-7 Failure to pass examination; effect (Repealed)**

Sec. 7. (*Repealed by Indiana Auctioneer Commission; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1952*)

**812 IAC 1-1-8 Auction house or auction company license application; forfeiture of fee when application incomplete (Repealed)**

Sec. 8. (*Repealed by Indiana Auctioneer Commission; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1952*)

**812 IAC 1-1-9 Renewal of license (Repealed)**

Sec. 9. (*Repealed by Indiana Auctioneer Commission; filed Nov 18, 1980, 8:55 am: 4 IR 52*)

**812 IAC 1-1-10 Reinstatement after expiration (Repealed)**

Sec. 10. (*Repealed by Indiana Auctioneer Commission; filed Nov 18, 1980, 8:55 am: 4 IR 52*)

**812 IAC 1-1-11 Lapse of year; reexamination (Repealed)**

Sec. 11. (*Repealed by Indiana Auctioneer Commission; filed Nov 18, 1980, 8:55 am: 4 IR 52*)

**812 IAC 1-1-12 Lapse of license due to military service; renewal**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-3-2

Sec. 12. Any licensed auctioneer who permits his license to lapse due to his entering the

armed services or government service in connection with a war effort shall, upon presentation of satisfactory evidence of honorable discharge, be granted a renewal of said license at the usual cost, without the penalty and without re-examination.

*(Indiana Auctioneer Commission; Rule 13; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 167; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236)*

**812 IAC 1-1-13 Notice of operation or discontinuance of auction house or company by licensed auctioneer**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-3-3; IC 25-6.1-3-4

Sec. 13. An individual who is a licensed auctioneer operating an auction house and/or auction company shall notify the Commission of such operation in duplicate on prescribed forms provided by the Commission. Said licensee shall notify the Commission in writing of the discontinuance of such operation and/or operations. *(Indiana Auctioneer Commission; Rule 14; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 167; filed Nov 18, 1980, 8:55 am: 4 IR 53; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236)*

**812 IAC 1-1-14 Notice of operation or discontinuance of auction company by auction house licensee**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-3-3; IC 25-6.1-3-4

Sec. 14. An individual who is an auction house licensee operating an auction company shall notify the Commission of such operation in duplicate on prescribed forms provided by the Commission. Said licensee shall notify the Commission in writing of the discontinuance of such operation and/or operations. *(Indiana Auctioneer Commission; Rule 15; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 167; filed Nov 18, 1980, 8:55 am: 4 IR 53; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236)*

**812 IAC 1-1-15 Auction company licensee operating additional auction companies or auction houses; notice to commissioner *(Repealed)***

Sec. 15. *(Repealed by Indiana Auctioneer Commission; filed Nov 18, 1980, 8:55 am: 4 IR 52)*

**812 IAC 1-1-16 Change of licensee address or business or trade name; notice**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-3-3; IC 25-6.1-3-4

Sec. 16. All licensees shall notify the commission in writing within ten (10) days of the following:

(1) Change of address.

(2) Change of business or trade name.

(3) For auction houses and auction companies, change of ownership as described in section 16.1 of this rule.

*(Indiana Auctioneer Commission; Rule 17; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 168; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1950; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236)*

**812 IAC 1-1-16.1 Change in ownership; auction house or auction company**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-3-2

Sec. 16.1. All changes in ownership of an auction house or auction company cause the auction house or auction company license to terminate. In order to operate the auction house or auction company, the new owner must obtain a license. Changes in ownership include:

(1) sale;

(2) changes of business organization; and

(3) changes in the identity of the partners in a partnership;

of an auction house or auction company. *(Indiana Auctioneer Commission; 812 IAC 1-1-16.1; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1950; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236)*

**812 IAC 1-1-17 Temporary permits**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-3-2

Sec. 17. (a) The commission may, for good cause shown, upon the receipt of an application for examination for an auctioneer license, and, for a temporary permit, issue a temporary permit for one (1) auction sale. This permit is not intended to circumvent the licensing procedure of IC 25-6.1-3-2.

(b) The applicant shall submit the following:

(1) The prescribed application and fee.

(2) A personally written letter to the Indiana auctioneer commission from the owner or owners of said property to be sold at auction, requesting and attesting to the necessity of the applicant's services as auctioneer conducting said sale.

(3) An affidavit from the owner of said property attesting to the fact that the

applicant is qualified to conduct said auction.

(4) On prescribed form, the date, location, owner of property, and property to be sold at said auction sale.

(5) Evidence to the commission of applicant's intention to participate in a specific examination offered by the commission to become a duly licensed auctioneer in the state of Indiana.

(c) The application shall be presented to the Indiana auctioneer commission for its consideration. The applicant shall be advised in writing by the commission of its decision.

(d) A temporary permittee who fails to pass one (1) of the next two (2) regularly scheduled examinations may not be issued a temporary permit. (*Indiana Auctioneer Commission; Rule 18; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 168; filed Mar 21, 1988, 1:30 p.m.: 11 IR 2870; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1951; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

#### **812 IAC 1-1-18 Reciprocal license application**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-3-2

Sec. 18. All individuals making application for an auctioneer license per reciprocal agreement shall submit with their application a letter of certification from the state board or commission of their state of domicile, certifying that they are duly licensed in said state, stating their residency, date of issuance and expiration of license. (*Indiana Auctioneer Commission; Rule 19; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 168; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

#### **812 IAC 1-1-19 Contracts; specifications; retention of original**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-6-4

Sec. 19. All contract agreements, or any authority to sell shall show a definite date of contract and a definite date of sale, shall be in writing, made in duplicate, one copy to the owner at the time of signing and the original to be retained in the office of the auctioneer and/or auction company licensee for a period of not less than two years. (*Indiana Auctioneer Commission; Rule 20; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 168; filed Nov 18, 1980, 8:55 am: 4 IR 53; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

#### **812 IAC 1-1-20 Real estate sales; powers and duties of auctioneers**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-6

Sec. 20. A licensed auctioneer may advertise and sell real estate at auction. The licensee shall have an executed contract or agreement with the owner or seller containing the terms and conditions upon which licensee receives or accepts the real estate for sale at auction. The licensee shall conduct the bidding and announce the culmination thereof. No further acts necessary to transfer title to the real estate shall be performed by the licensee. (*Indiana Auctioneer Commission; Rule 21; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 168; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

#### **812 IAC 1-1-21 Sign on real estate to be auctioned; consent of owner**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-6-4; IC 25-6.1-6-5

Sec. 21. An auctioneer and/or auction company licensee shall not place a sign on any property, offering it for sale, without the written consent of the owner. (*Indiana Auctioneer Commission; Rule 22; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 168; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

#### **812 IAC 1-1-22 Summary of receipts and disbursements; submission to seller**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-6-2

Sec. 22. Every auctioneer and/or auction company licensee shall deliver to the seller in every transaction wherein he acts as an auctioneer and/or auction company licensee a complete detailed summary showing all of the receipts and disbursements handled by such auctioneer and/or auction company licensee. (*Indiana Auctioneer Commission; Rule 23; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 168; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

#### **812 IAC 1-1-23 Knowledge of current market conditions; duty of auctioneer**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-3-2; IC 25-6.1-6-1

Sec. 23. An auctioneer and/or licensee shall keep informed on current market conditions of real and personal property at all times in order to be in a

position to advise and perform services for his clients to the best of his ability. (*Indiana Auctioneer Commission; Rule 24; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 169; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

#### **812 IAC 1-1-24 Unprofessional conduct**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-6-1; IC 25-6.1-6-2

Sec. 24. A licensee shall conduct his professional activities in a professional manner that will reflect credit upon himself, the auction profession and auctioneers. Unprofessional conduct includes but is not limited to the following:

(1) Failure of a licensee to account to and pay over all monies and tangible personal property coming into his possession which belong to others including buyers at auction as well as consignors no later than thirty days from the date that the obligation arises to remit or deliver the said monies or tangible personal property.

(2) A licensee's payment of compensation in money or other valuable thing to any person other than a licensee for the rendering of any service or the doing of any of the acts by this act forbidden to be rendered or performed by other than licensees.

(*Indiana Auctioneer Commission; Rule 25; filed Oct 7, 1977; 3:25 p.m.: Rules and Regs. 1978, p. 169; filed Nov 18, 1980, 8:55 am: 4 IR 54; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

#### **812 IAC 1-1-25 Practice of law prohibited**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-6-1

Sec. 25. A licensee shall not engage in activities that constitute the practice of law and shall recommend that his clients seek the services of a lawyer when he deems it necessary. (*Indiana Auctioneer Commission; Rule 26; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 169; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

#### **812 IAC 1-1-26 Self-dealing prohibited; exemption**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-6-1

Sec. 26. A licensee shall refrain from buying or selling at his own auction for personal gain, unless disclosed to the seller. (*Indiana Auctioneer Commission; Rule 27; filed Oct 7, 1977, 3:25 p.m.:*

*Rules and Regs. 1978, p. 169; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

#### **812 IAC 1-1-27 Auctioneer-client relationship; disclosure of costs and services**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-6-1

Sec. 27. A licensee shall preserve a professional, confidential relationship with his client, revealing estimated costs and services for conducting the auction. (*Indiana Auctioneer Commission; Rule 28; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 169; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

#### **812 IAC 1-1-28 Fees for services (*Repealed*)**

Sec. 28. (*Repealed by Indiana Auctioneer Commission; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1952*)

#### **812 IAC 1-1-29 Advertising by auctioneer (*Repealed*)**

Sec. 29. (*Repealed by Indiana Auctioneer Commission; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1952*)

#### **812 IAC 1-1-30 Forms used by auctioneers (*Repealed*)**

Sec. 30. (*Repealed by Indiana Auctioneer Commission; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1952*)

#### **812 IAC 1-1-31 Student auctioneers; supervision of practice**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-2-5

Sec. 31. The Commission shall grant permission to auctioneer schools accredited by the Private School Accrediting Commission of Indiana, to allow their students, through the duration of the school, to practice and participate in the capacity of an auctioneer, under the supervision of their instructor. (*Indiana Auctioneer Commission; Rule 32; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 169; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

#### **812 IAC 1-1-32 Complaints**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-7-2

Sec. 32. Except for IC 25-6.1-7-2, all complaints filed concerning violations of IC 25-6.1 and this title must be filed with the office of the attorney general, consumer protection division on forms furnished by the consumer protection division. (*Indiana Auctioneer Commission; Rule 33; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 169; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1951; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

**812 IAC 1-1-33 Contract disputes; commission without jurisdiction to settle; written contracts required**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-6-5

Sec. 33. The Commission is not a commission of arbitration and has no jurisdiction to settle disputes between parties concerning such matters of contract as the rates of commission, the division of commission, and similar matters. The statute requires, to avoid differences between parties that all agreements concerning auctions be reduced to writing at the earliest practical time. (*Indiana Auctioneer Commission; Rule 34; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 169; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

**812 IAC 1-1-34 Auction procedure; completion of sale; sale without reserve**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-2-5; IC 25-6.1-6-1

Sec. 34. (a) In a sale by auction if property being sold is put up in lots, each lot is the subject of a separate sale.

(b) A sale by auction is complete when the auctioneer so announces by the fall of the hammer or in any other customary manner. Where a bid is made while the hammer is falling in acceptance of a prior bid, the auctioneer may in his discretion reopen the bidding or declare the property sold under the bid on which the hammer was falling.

(c) Such a sale is with reserve unless the property being sold is in explicit terms put up without reserve. In an auction with reserve the auctioneer may withdraw the property being offered for sale at any time until he announces completion of the sale. In an auction without reserve, after an auctioneer calls for bids on property being offered for sale, such property cannot be withdrawn unless no bid is made within a reasonable time. In either case a bidder may retract his bid until the auctioneer's announcement of

completion of the sale, but a bidder's retraction does not revive any previous bid.

(d) If the auctioneer knowingly receives a bid on the seller's behalf or the seller makes or procures such a bid, and notice has not been given that liberty for such bidding is reserved, the buyer may at his option avoid the sale or take the property at the price of the last good faith bid prior to the completion of the sale. (*Indiana Auctioneer Commission; Rule 35; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 169; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

**812 IAC 1-1-35 Fees charged by commission**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-3-5

Sec. 35. The following fees shall be charged by and paid to the commission by applicants and licensees:

- (1) Application for examination \$25
- (2) Application for licensure as an auctioneer per reciprocal agreement \$35
- (3) Application for licensure as an auction house \$35
- (4) Application for licensure as an auction company \$35
- (5) Application for licensure as an auctioneer per temporary permit \$25
- (6) Biennial registration as auctioneer \$35
- (7) Biennial registration as an auction house \$35
- (8) Biennial registration as an auction company \$35
- (9) License renewal reinstatement fee \$25
- (10) Duplicate license, where the original license is lost or destroyed, and an affidavit thereof, submitted to the commission or reissuance of a license involving change \$5
- (11) Duplicate pocket card, where the original card is lost or destroyed and an affidavit thereof, submitted to the commission \$5
- (12) Certification of status of license \$5

(*Indiana Auctioneer Commission; Rule 36; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 170; filed Nov 18, 1980, 8:55 a.m.: 4 IR 52; filed Mar 21, 1988, 1:30 p.m.: 11 IR 2870; filed Jun 14, 1996, 3:00 p.m.: 19 IR 3098; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

**812 IAC 1-1-36 Reconsideration of license after revocation**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-3-2

Sec. 36. Not earlier than one (1) year after the revocation of a license, as a consideration for issuance, the Commission may consider the application of the licensee or his successor and may issue a new license for good cause and in the case of an auctioneer, shall in all cases require the examination as provided for by the Indiana Auctioneer and Auction Licensing Act (IC 25-6.1) (*Indiana Auctioneer Commission; Rule 37; filed Nov 18, 1980, 8:55 am; 4 IR 54; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

#### **812 IAC 1-1-37 Investigation of trust accounts**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-6-6

Sec. 37. Each licensee shall make available for inspection and copying the detailed record required by IC 25-6.1-6-6(b) upon request by the commission for investigative and compliance purposes. (*Indiana Auctioneer Commission; 812 IAC 1-1-37; filed Sep 25, 1990, 3:25 p.m.: 14 IR 288; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

#### **812 IAC 1-1-38 Advertising**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-6-5

Sec. 38. In addition to the requirements under IC 25-6.1-6-5, all advertisements of auctions shall disclose the following:

- (1) The name and license number of the principal auctioneer involved in the auction.
- (2) The name and license number of the principal auction house involved in the auction.
- (3) The name and license number of the principal auction company involved in the auction.

(*Indiana Auctioneer Commission; 812 IAC 1-1-38; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1951; filed Oct 16, 2000, 10:17 a.m.: 24 IR 687; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

#### **812 IAC 1-1-39 Posting auction sign**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-2

Sec. 39. (a) Each licensee shall jointly be responsible for posting a sign at either the main entrance of the auction, the place of registration, or by the cashier that states the following:

- (1) The name and license number of all auctioneers involved in the auction.

(2) The name and license number of all auction houses involved in the auction.

(3) The name and license number of all auction companies involved in the auction.

(4) That the persons identified in this subsection are licensed by the Indiana Auctioneer Commission, Indiana Government Center, Indianapolis, Indiana 46204.

(b) The sign required under subsection (a) shall be no smaller than twenty-four (24) inches by thirty (30) inches, and the letters and numbers appearing on the sign must be of adequate size so that they may be readily seen by an individual with normal vision when viewing them. (*Indiana Auctioneer Commission; 812 IAC 1-1-39; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1951; filed Oct 16, 2000, 10:17 a.m.: 24 IR 687; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

#### **812 IAC 1-1-40 Auctioneer; records and accounts**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-6

Sec. 40. (a) The requirements of IC 25-6.1-6-1, IC 25-6.1-6-2, and IC 25-6.1-6-3 apply to auctioneers conducting auctions for auction houses or auction companies.

(b) The records and accounts required under IC 25-6.1-6-3 shall include the following:

- (1) Name, license number, and address of auction company or auction house.
- (2) Date of sale.
- (3) Location of sale.

(*Indiana Auctioneer Commission; 812 IAC 1-1-40; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1952; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

#### **812 IAC 1-1-41 Auction company; auction house; records and accounts**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-6-3

Sec. 41. Each auction company licensee and auction house licensee, in addition to the requirements under IC 25-6.1-6-3, shall keep and maintain for a period of not less than two (2) years the name, license number, address, and date of auction sale of all auctioneers employed to conduct such auctions. (*Indiana Auctioneer Commission; 812 IAC 1-1-41; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1952; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

#### **812 IAC 1-1-42 Compliance with IC 26-1-6-107**

**Authority:** IC 25-6.1-2-5



**Affected: IC 25-6.1; IC 26-1-6-107**

Sec. 42. Auctioneers shall comply with IC 26-1-6-107. (*Indiana Auctioneer Commission; 812 IAC 1-1-42; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1952; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

**812 IAC 1-1-43 Violations; professional incompetence**

**Authority: IC 25-6.1-2-5**

**Affected: IC 25-6.1-4-1.1**

Sec. 43. Violations of sections 13, 14, 16, 16.1, 19 through 34, and 38 through 43 of this rule shall be considered professional incompetence under IC 25-6.1-4-1.1. (*Indiana Auctioneer Commission; 812 IAC 1-1-43; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1952; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

**ARTICLE 2. AUCTIONEER COURSES AND INITIAL EDUCATION COURSE PROVIDERS**

**Rule 1. Definitions; General Provisions**

**812 IAC 2-1-1 Scope**

**Authority: IC 25-6.1-2-5**

**Affected: IC 25-6.1-3-2**

Sec. 1. (a) This article establishes requirements for the education of applicants for auctioneer licensure and establishes requirements for auction instruction pursuant to IC 25-6.1-3-2.

(b) The definitions in this rule apply throughout this article. (*Indiana Auctioneer Commission; 812 IAC 2-1-1; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3088*)

**812 IAC 2-1-2 "Course session" defined**

**Authority: IC 25-6.1-2-5**

**Affected: IC 25-6.1**

Sec. 2. "Course session" means a particular course of auction instruction conducted by an approved course provider. (*Indiana Auctioneer Commission; 812 IAC 2-1-2; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3088*)

**812 IAC 2-1-3 Violations of statute and rules**

**Authority: IC 25-6.1-2-5**

**Affected: IC 4-21.5-3; IC 4-21.5-4; IC 25-6.1**

Sec. 3. (a) Failure of an approved course provider to comply with the provisions of this article shall subject it to denial of course provider approval

or revocation or suspension of course provider approval as appropriate.

(b) If an approved course provider fails to meet the requirements for course provider approval renewal established in 812 IAC 2-2-4 and 812 IAC 2-2-5, the renewal shall be denied.

(c) Under subsections (a) through (b), auction schools shall be responsible for the actions of their employees and other agents.

(d) Notices of denials of course provider approval or renewals and administrative review of such denials are governed by IC 4-21.5-3-4 and IC 4-21.5-3-7.

(e) Institution of proceedings to revoke or suspend course provider approval is governed by IC 4-21.5-3-8. Emergency suspensions may be issued, where appropriate, under IC 4-21.5-4. (*Indiana Auctioneer Commission; 812 IAC 2-1-3; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3088*)

**812 IAC 2-1-4 Revocation, suspension, or denial of renewal of course provider approval; completion of courses**

**Authority: IC 25-6.1-2-5**

**Affected: IC 25-6.1**

Sec. 4. In the event it suspends, revokes, or denies renewal of course provider approval, the commission may, at its discretion, allow any course already in progress to be completed. (*Indiana Auctioneer Commission; 812 IAC 2-1-4; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3084*)

**812 IAC 2-1-5 Application for course provider approval; content**

**Authority: IC 25-6.1-2-5**

**Affected: IC 25-6.1**

Sec. 5. (a) Any auction school seeking approval as a course provider shall make written application for approval and shall submit such documents, statements, and forms as required by the commission, and as may be reasonably necessary to establish whether the school complies with the requirements of this article.

(b) The application shall state the name and address of the school's owner.

(c) The application shall list all instructors who will be teaching the course and include evidence that they comply with the qualifications established in 812 IAC 2-3-2. (*Indiana Auctioneer Commission; 812 IAC 2-1-5; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3089*)

## **Rule 2. Approved Course Providers; General Requirements**

### **812 IAC 2-2-1 Facilities**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 1. (a) The premises, equipment, and facilities of the approved course provider shall comply with all local, city, county, and state regulations, such as fire, building, and sanitation codes.

(b) Approved course providers shall prohibit the serving or obtaining of alcoholic beverages in the classroom and any other area that the student would have access to during the time class is in session, including breaks, such as the restroom and hallways.

(c) Subsection (b) shall not be interpreted to prohibit the use of facilities (such as hotels, motels, and convention centers) where alcoholic beverages are sold in separate rooms. (*Indiana Auctioneer Commission; 812 IAC 2-2-1; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3089*)

### **812 IAC 2-2-2 Student fees; cancellation of course sessions**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 2. (a) An approved course provider shall not charge a fee to students for seminars or other courses offered in preparation for the state licensing examination. This applies to students who are currently enrolled in a course or have completed a course within the past thirty (30) days.

(b) The cost of textbooks, supplemental texts, and required materials shall be included in the course fee. Disclosure of the full cost of the course (including tuition, books, and required materials) must be made to the student before enrollment.

(c) Each approved course provider shall establish a refund policy, which is included in all printed material related to the offering of the course. The refund policy shall be available for review and acceptance by the student at the time of enrollment.

(d) If a course session is canceled, the course provider must notify all individuals who have enrolled in it at least three (3) days in advance of the first scheduled class. (*Indiana Auctioneer Commission; 812 IAC 2-2-2; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3089*)

### **812 IAC 2-2-3 Course records**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 3. Each approved course provider must maintain records of students who successfully complete and pass the course of study for a minimum of two (2) years. The records must include:

- (1) attendance records;
- (2) examination score records;
- (3) student course evaluations; and
- (4) duplicate copies of completion certificates or the ability to reproduce duplicate completion certificates.

(*Indiana Auctioneer Commission; 812 IAC 2-2-3; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3089*)

### **812 IAC 2-2-4 Renewal of course provider approval**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 4. The approval of course providers expires on February 28 of each even-numbered year. To obtain renewal of course provider approval, the school must submit a letter requesting such renewal to the commission by January 1 of each even-numbered year. (*Indiana Auctioneer Commission; 812 IAC 2-2-4; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3090*)

### **812 IAC 2-2-5 Review and investigation of approved course providers**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 5. (a) As a requirement for renewal, an approved course provider may be required to provide specific information, answer questions, and/or appear before the commission or its designee for the purpose of determining compliance with this article.

(b) The commission or its designee may, at any time, review and/or investigate any matter concerning any course, or applicant for course provider approval to determine compliance with this article.

(c) The method of review shall be determined by the commission in each case and will generally consist of the following:

- (1) Consideration of information available from federal, state, and/or local agencies, private organizations or agencies, or interested persons.

(2) Conferences with the school director and other representatives of the school involved or with former students of the school.

(d) The commission may require a background check on school personnel, including a criminal history check. (*Indiana Auctioneer Commission; 812 IAC 2-2-5; filed Jul 3, 1996, 5:00 p.m.: 19 IR 2090*)

### **Rule 3. Instructors**

#### **812 IAC 2-3-1 Instructors; compliance with rule required**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 1. All instructors employed by approved course providers must meet the requirements of this rule. (*Indiana Auctioneer Commission; 812 IAC 2-3-1; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3090*)

#### **812 IAC 2-3-2 Instructors; qualifications**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 2. Each instructor shall possess at least one (1) of the following minimum requirements:

(1) A minimum of five (5) years of experience as an instructor in an establishment that offered auction instruction prior to July 1, 1996, or an auction school approved by the commission, or a combination of both.

(2) A bachelor's degree from an accredited college or university and a minimum of two (2) years of experience in the auction business.

(3) A minimum of five (5) years of experience as an auctioneer.

(4) A juris doctor or equivalent from an accredited law school, and a minimum of two (2) years of experience in the subject matter to be taught in the course.

(5) Two (2) years of experience as a qualified instructor or professor in the business, finance, or economics department of an accredited college or university.

(*Indiana Auctioneer Commission; 812 IAC 2-3-2; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3090*)

#### **812 IAC 2-3-3 Instructors; prohibitions**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 3. An approved course provider is prohibited from hiring, or retaining in its employ, an instructor who:

(1) has had his or her auctioneer license revoked or suspended by any jurisdiction;

(2) has obtained or used, or attempted to obtain or use, in any manner, Indiana auctioneer licensing examination questions to be used on future examinations unless authorized by law;

(3) has been convicted of a crime, which has a direct bearing on the individual's ability to competently instruct, including, but not necessarily limited to, violations of auction laws and abuse of fiduciary responsibilities;

(4) has falsely certified hours of attendance or grades for any student; or

(5) unless allowed by law, has refused to appear and/or testify under oath at any hearing held by the commission.

(*Indiana Auctioneer Commission; 812 IAC 2-3-3; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3090*)

### **Rule 4. Conduct of Courses**

#### **812 IAC 2-4-1 Auctioneer courses; hours of classroom instruction**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 1. (a) An auctioneer course shall consist of at least eighty (80) hours of classroom instruction.

(b) Each auctioneer course shall be conducted on at least ten (10) different days with a maximum of eight (8) hours of instruction per day.

(c) The examinations required under section 4(a) of this rule may not count toward the hours required by subsection (a). (*Indiana Auctioneer Commission; 812 IAC 2-4-1; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3090; errata filed Sep 23, 1996, 3:00 p.m.: 20 IR 333*)

#### **812 IAC 2-4-2 Breaks**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-3-2

Sec. 2. Any amount of time allotted to breaks may not be counted toward the eighty (80) hours of actual instruction required by IC 25-6.1-3-2. (*Indiana Auctioneer Commission; 812 IAC 2-4-2; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3091*)

#### **812 IAC 2-4-3 Attendance**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 3. (a) All attendance shall be in the same course session and may not be cumulative.

(b) A student may not receive attendance credit for attending more than one (1) class meeting of a class other than a class in the course session to which the student is assigned. The one (1) class must cover the same material as the class missed, the make up class must be completed during the regular class session, and must be sponsored by the school in which the student is enrolled. (*Indiana Auctioneer Commission; 812 IAC 2-4-3; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3091*)

#### **812 IAC 2-4-4 Examinations**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 4. (a) Each auctioneer course shall be required to have three (3) written examinations with each examination consisting of one hundred (100) questions. A total of two hundred twenty-five (225) points from the three (3) examinations is required to pass the course.

(b) Dates of all examinations must be announced to the students at least one (1) day in advance, and examinations shall be evenly spaced throughout the course.

(c) All examinations must be administered in the scheduled class session under the supervision of the course instructor. Take home examinations may not be credited toward the required passing score in the course.

(d) The total score to pass a course must be based only on scores earned on the required in-class examinations. Class recitations and quizzes may not be used to supplement or take the place of examination grades.

(e) Total security shall be provided for all examinations prior to, during, and after administration. Questions may not be distributed to students or discussed in class in advance. Students shall be prohibited from copying an examination after it has been administered.

(f) An examination booklet and all answer sheets shall be retained by the sponsoring school for at least one (1) year. Examinations may be made available to students only for personal review in a supervised situation after the examinations have been graded and scores recorded.

(g) Examinations administered in the auction course shall not be taken from the school premises under any circumstances.

(h) Administration of make up examinations shall be at the discretion of the course instructor. If make

up examinations are permitted, and the student is taking the examination prior to other students in the class, the same examination that will be used for the class shall be administered. If the student will be taking a make up examination after other students in the class, a different examination shall be used, however, the examination must cover the same subject content.

(i) Each approved course provider shall establish a written policy against cheating in its auctioneer courses. (*Indiana Auctioneer Commission; 812 IAC 2-4-4; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3091*)

#### **812 IAC 2-4-5 Course evaluations**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 5. (a) Course providers are required to survey their students at the end of each course session and/or after the students have taken the state licensing examination.

(b) The survey shall include information regarding:

- (1) the quality of instruction;
- (2) appropriateness of materials; and
- (3) other information that will properly evaluate the course.

(c) Evaluations must be made available for inspection by the commission upon request. (*Indiana Auctioneer Commission; 812 IAC 2-4-5; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3091*)

#### **Rule 5. Course Providers; Miscellaneous Prohibitions**

##### **812 IAC 2-5-1 Advertising**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 1. No course provider conducting a course of study shall advertise or make any reference in its advertising, promotional material, brochures, and/or registration forms that it is endorsed, recommended, or accredited by, or affiliated with the commission. (*Indiana Auctioneer Commission; 812 IAC 2-5-1; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3091*)

##### **812 IAC 2-5-2 Advertising; requirements**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 2. (a) Course providers are prohibited from engaging in false or misleading advertising.

(b) If a course provider's advertisement contains representations concerning the number or percentage of its students who pass the commission's auctioneer

examination, the course provider shall retain information, including the raw data and the calculation substantiating the accuracy of the representations, and make it available to the commission upon request.

(c) The method of calculation of passing percentage under subsection (b) shall be as follows:

- (1) Advertisement must state the period for which passing percentages are reported.
- (2) Percentages must be based on first-time candidates taking the state licensing examinations for the period reported.

*(Indiana Auctioneer Commission; 812 IAC 2-5-2; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3092)*

### **812 IAC 2-5-3 Course providers; prohibitions**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 3. Course providers are prohibited from the following:

- (1) Giving materially inaccurate or misleading information in an application for course provider approval or an annual report.
- (2) Deliberately falsifying or misrepresenting any information supplied to the commission or the public.
- (3) Possessing, claiming to possess, revealing, or distributing any questions used in the commission's auctioneer examination.
- (4) Having substantially failed to comply with the provisions of any contract or agreement entered into with a student.
- (5) Failing to allow the commission or its designee to inspect the school or its records or failing to make available such information as required by this article.
- (6) Having been convicted, or one (1) of its owners having been convicted, of a crime that has a direct bearing on the course provider's ability to conduct an auction course, including, but not necessarily limited to, violation of auction laws and abuse of fiduciary responsibilities.
- (7) Violating IC 25-6.1 or this title.
- (8) Failing to notify the commission within thirty (30) days of the termination of its relationship with an instructor for cause.

*(Indiana Auctioneer Commission; 812 IAC 2-5-3; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3092)*

### **Rule 6. Auctioneer Course; Subject Area Emphasis**

#### **812 IAC 2-6-1 Subject areas; number of course hours**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 1. (a) Auctioneer courses offered by an approved course provider must include no fewer than the minimum number of hours in each of the subject areas as listed in subsection (b).

(b) The subject areas and corresponding minimum hourly requirements for an auctioneer course are as follows:

- (1) A minimum of sixty (60) hours must be accrued in the following subjects with the minimum hourly requirement for each subject being equal to the number of course hours listed:

Subject Area	Number of Course Hours
Bid calling/public speaking	8
Ethics	3
Sale advertising	5
Accounting procedures/mathematics	3
Sale summary/closing statements	3
Firearms	2
Auction law, including sales tax law and environmental law pertaining to auctioneering	15
UCC and bulk transfers	2
Contracts and legal matters	5
Bankruptcy	2
Appraising	5
Sale preparation, set-up, and clean-up	<u>7</u>
	60

- (2) A minimum of eleven (11) hours must be accrued in the following subjects, with a minimum of one (1) hour in each subject listed:

Antiques  
Art, rugs, and jewelry  
Automobiles  
Cattle and livestock  
Computers  
Estate sales  
Farm machinery  
Furniture  
Heavy equipment  
Insurance  
Tobacco

- (3) A minimum of nine (9) hours must be accrued in the following subjects, with a

minimum of three (3) hours in each subject listed:

- Auction house operation
- Real estate
- Ring work

*(Indiana Auctioneer Commission; 812 IAC 2-6-1; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3092)*

#### **Rule 7. Auctioneer Course; Outline**

##### **812 IAC 2-7-1 Bid calling; public speaking**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 1. The following are concepts that must be emphasized when teaching bid calling and/or public speaking:

- (1) Individual poise.
- (2) Command of the podium.
- (3) Body language.
- (4) Eye contact.
- (5) Voice control.
- (6) Auction chant.
- (7) Clarity and timing.

*(Indiana Auctioneer Commission; 812 IAC 2-7-1; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3093)*

##### **812 IAC 2-7-2 Ethics**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 2. The following are concepts that must be emphasized when teaching auctioneering ethics:

- (1) Proper conduct related to advertising.
- (2) Cooperation between auctioneers.
- (3) Opening statements.
- (4) Client relationships.

*(Indiana Auctioneer Commission; 812 IAC 2-7-2; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3093)*

##### **812 IAC 2-7-3 Sale advertising**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 3. The following are concepts that must be emphasized when teaching the advertisement of sales:

- (1) Setting an advertising budget.
- (2) The use of sale bills, brochures, and electronic media.

*(Indiana Auctioneer Commission; 812 IAC 2-7-3; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3093)*

##### **812 IAC 2-7-4 Accounting procedures/mathematics**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 4. The following are concepts that must be emphasized when teaching accounting procedures and/or mathematics:

- (1) General record keeping for auctioneers, auction companies, and auction houses.
- (2) Escrow accounting.
- (3) Real estate math.

*(Indiana Auctioneer Commission; 812 IAC 2-7-4; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3093)*

##### **812 IAC 2-7-5 Sale summary; closing statements**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 5. The following are concepts that must be emphasized when teaching sale summarization and closing statements:

- (1) Settlement procedures.
- (2) Required forms.

*(Indiana Auctioneer Commission; 812 IAC 2-7-5; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3093)*

##### **812 IAC 2-7-6 Firearms**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 6. The following are concepts that must be emphasized when teaching about firearms:

- (1) Local, state, and federal laws pertaining to the sale of firearms.
- (2) Procedures for handling firearms in an auction setting.

*(Indiana Auctioneer Commission; 812 IAC 2-7-6; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3093)*

##### **812 IAC 2-7-7 Auction law**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 7. The following must be emphasized when teaching auction law:

- (1) Local, state, and federal law as it pertains to conducting auctions.
- (2) Indiana license law (IC 25-6.1 and 812 IAC).
- (3) Sales tax law as it pertains to auctions.
- (4) Environmental law and environmental concerns pertaining to auctions or auctioneering.
- (5) Procedures for due diligence.

*(Indiana Auctioneer Commission; 812 IAC 2-7-7; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3093)*

#### **812 IAC 2-7-8 Contracts and legal matters**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 8. The following must be emphasized when teaching contracts and legal matters:

- (1) Procedures and forms used when drawing up a contract.
- (2) Recent case law decisions involving the auction profession.
- (3) Contractual responsibilities.

*(Indiana Auctioneer Commission; 812 IAC 2-7-8; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3093)*

#### **812 IAC 2-7-9 Bankruptcy**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 9. The following must be emphasized when teaching about bankruptcy:

- (1) Chapter 7 bankruptcy as it pertains to auctions.
- (2) Chapter 11 bankruptcy as it pertains to auctions.
- (3) Chapter 13 bankruptcy as it pertains to auctions.
- (4) Procedures for conducting auctions involving Chapter 7, Chapter 11, or Chapter 13 bankruptcy.

*(Indiana Auctioneer Commission; 812 IAC 2-7-9; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3094)*

#### **812 IAC 2-7-10 Appraising**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 10. The following concepts must be emphasized when teaching appraising:

- (1) Requirements for personal property appraisers and real estate appraisers.
- (2) Appraising procedures.
- (3) Appraising formats.
- (4) Valuation techniques.

*(Indiana Auctioneer Commission; 812 IAC 2-7-10; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3094)*

#### **812 IAC 2-7-11 Sale preparation, set-up, and clean-up**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 11. The following concepts must be emphasized when teaching sale preparation, set-up, and clean-up:

- (1) Practical applications.
- (2) "How to" procedures.

*(Indiana Auctioneer Commission; 812 IAC 2-7-11; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3094)*

#### **812 IAC 2-7-12 Auction house operation**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 12. The following concepts must be emphasized when teaching auction house operation:

- (1) Accounting and bookkeeping requirements.
- (2) Consignor requirements.
- (3) Auction procedures.
- (4) Liability concerns.

*(Indiana Auctioneer Commission; 812 IAC 2-7-12; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3094)*

#### **812 IAC 2-7-13 Computers**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 13. Knowledge and proper use of computer hardware and software specifically designed for auction purposes must be emphasized when teaching computers. *(Indiana Auctioneer Commission; 812 IAC 2-7-13; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3094)*

#### **812 IAC 2-7-14 Insurance**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 14. The following concepts must be emphasized when teaching insurance:

- (1) Policy types.
- (2) Determining adequate coverage for auctions.
- (3) Case studies involving recent insurance claims involving auctions, auction companies, or auction houses.

*(Indiana Auctioneer Commission; 812 IAC 2-7-14; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3094)*

**812 IAC 2-7-15 Real estate****Authority: IC 25-6.1-2-5****Affected: IC 25-6.1**

Sec. 15. The following concepts must be emphasized when teaching real estate:

- (1) Identification of potential auction property.
- (2) Listing procedures.
- (3) Required forms.
- (4) Proper pricing.
- (5) Advertising.
- (6) Signage.

*(Indiana Auctioneer Commission; 812 IAC 2-7-15; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3094)*

**812 IAC 2-7-16 Ring work****Authority: IC 25-6.1-2-5****Affected: IC 25-6.1**

Sec. 16. The following concepts must be emphasized when teaching ring work:

- (1) Practical application.
- (2) Accepted procedures.
- (3) Communication techniques.
- (4) Proper conduct.

*(Indiana Auctioneer Commission; 812 IAC 2-7-16; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3094)*

**812 IAC 2-7-17 Other subjects; emphasis****Authority: IC 25-6.1-2-5****Affected: IC 25-6.1**

Sec. 17. General categorical information, procedures pertaining to the auction of the items, and the methods of positive identification of the items must be emphasized when teaching the following subjects:

- (1) Antiques.
- (2) Art, rugs, and jewelry.
- (3) Automobiles.
- (4) Cattle and livestock.
- (5) Estate sales.
- (6) Farm machinery.
- (7) Furniture.
- (8) Heavy equipment.
- (9) Tobacco.

*(Indiana Auctioneer Commission; 812 IAC 2-7-17; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3094)*

**ARTICLE 3. CONTINUING EDUCATION****Rule 1. Continuing Education Requirements; General****812 IAC 3-1-1 Continuing education requirements****Authority: IC 25-6.1-2-5****Affected: IC 25-1-11; IC 25-6.1-9-1**

Sec. 1. (a) As a prerequisite to renewal of an auctioneer license, the licensee shall satisfactorily complete twelve (12) hours of continuing education from an auctioneer continuing education course sponsor approved by the commission, which must be obtained during the two (2) year licensure period ending February 28 of every even-numbered year. No more than eight (8) hours of continuing education may be acquired during any one (1) day.

(b) Notwithstanding subsection (a), continuing education credit may be granted to an individual for instructing an auctioneer continuing education course. One (1) hour of continuing education credit may be earned per one (1) hour taught. No more than four (4) hours of continuing education credit accumulated in this manner may be applied toward license renewal requirements. Instructors of auctioneer continuing education courses may not receive credit for repeated courses.

(c) A licensee is not entitled to continuing education credit for any classroom hours that were used for required precensure education under 812 IAC 2-1.

(d) A licensee who attends the same continuing education course more than once in the same two (2) year license period is entitled to continuing education credit for that course only once.

(e) Multimedia instruction must take place in classroom setting with a qualified instructor present throughout the duration of the educational offering.

(f) Correspondence courses do not qualify for continuing education credit.

(g) The commission may verify any information concerning continuing education that is submitted by the licensee as evidence supporting the course information. The commission may require licensees to provide information regarding the continuing education hours claimed on the individual's renewal. Failure to do so may lead to disciplinary action as provided for in IC 25-1-11.

(h) It is the responsibility of each licensee to retain evidence to support the courses taken for a period of twenty-four (24) months after the end of the renewal period for which the renewal application is submitted to the commission. These records shall include one (1) or more of the following:



- (1) Course attendance verification by the sponsor.
- (2) Certificates of course completion.
- (3) Continuing education attendance history by a third party.
- (4) Other evidence of support and justification.

*(Indiana Auctioneer Commission; 812 IAC 3-1-1; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3095; filed Sep 17, 1998, 3:50 p.m.: 22 IR 453; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221)*

#### **812 IAC 3-1-1.1 Core subjects as elective credits**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-1-11; IC 25-6.1-9-1

Sec. 1.1. When the licensee obtains more than the required six (6) hours of continuing education in subjects listed in IC 25-6.1-9-1(b)(2) as core subjects, the licensee may count the excess hours toward meeting the six (6) hour elective subject requirement in IC 25-6.1-9-1(b)(2). *(Indiana Auctioneer Commission; 812 IAC 3-1-1.1; filed Sep 17, 1998, 3:50 p.m.: 22 IR 453; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221)*

#### **812 IAC 3-1-2 Application for auctioneer continuing education course sponsor**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-9

Sec. 2. (a) Any request for commission approval of an auctioneer continuing education course sponsor shall be by written application on a form provided by the commission.

(b) Applicants for continuing education course sponsor shall submit the following information:

- (1) Name, address, telephone number, and facsimile (FAX) number (if any) of the course sponsor.
- (2) If the ownership of the course sponsor is a partnership, the names and addresses of the partners.
- (3) If the ownership of the course sponsor is a corporation, the names and addresses of the officers and directors.
- (4) If the ownership of the course sponsor is a limited liability company, the names and addresses of the members and managers.
- (5) A course content outline describing the subjects to be offered during the approval period.
- (6) A statement that each instructor meets the qualifications required by section 7 of this rule.

(7) A statement that the course sponsor shall provide the licensee who successfully completes an approved course a certificate of course completion that meets the requirements of section 6 of this rule.

(8) A copy of the certificate of course completion required under section 6 of this rule.

(9) A statement that the course sponsor shall conduct an instructor and course evaluation and that they shall be provided to the commission upon request.

(10) A statement that any facility utilized by the course sponsor shall meet the requirements of 812 IAC 2-2-1.

(c) Notwithstanding subsection (b)(5), the Certified Auctioneers Institute and the National Auctioneer Association are not required to submit course content outlines describing the subjects to be offered during the approval period. *(Indiana Auctioneer Commission; 812 IAC 3-1-2; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3095; errata filed Aug 1, 1996, 4:00 p.m.: 19 IR 3472; filed Sep 17, 1998, 3:50 p.m.: 22 IR 454; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221)*

#### **812 IAC 3-1-3 Course sponsor approval date**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 3. Sponsors of auctioneer continuing education courses shall be considered approved as of the date of approval by the commission, and therefore courses predating the approval date do not qualify. *(Indiana Auctioneer Commission; 812 IAC 3-1-3; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3096; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221)*

#### **812 IAC 3-1-4 Course outline**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 4. A course outline shall be prepared and distributed to the attendees. The outline shall state the number of continuing education hours offered. *(Indiana Auctioneer Commission; 812 IAC 3-1-4; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3096; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221)*

#### **812 IAC 3-1-5 Course records**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 5. (a) An approved auctioneer continuing education course sponsor must retain

records of students who complete the course for a minimum of five (5) years. These records must include attendance records for all courses showing date, place, and attendee's name.

(b) The course sponsor may be asked to provide to the commission copies of records required by subsection (a). (*Indiana Auctioneer Commission; 812 IAC 3-1-5; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3096; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221*)

#### **812 IAC 3-1-6 Approved auctioneer continuing education sponsor; certificate requirements**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 6. (a) Upon completion of a continuing education course, the approved auctioneer continuing education sponsor shall provide all attendees a course completion certificate that must include the following information:

- (1) The name of the participant.
- (2) The license number of the participant.
- (3) The name, address, and signature of the sponsor.
- (4) The course title.
- (5) The course topic, if not reflected in the course title.
- (6) The date and location of the course.
- (7) The number of approved actual course hours.

(b) Licensees must retain the certificates described in subsection (a) for at least two (2) years after the end of the two (2) year renewal period in which the course was taken. (*Indiana Auctioneer Commission; 812 IAC 3-1-6; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3096; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221*)

#### **812 IAC 3-1-7 Instructors; requirements**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 7. Each instructor used by an approved auctioneer continuing education sponsor must have a minimum of two (2) years of experience in the field in which that instructor is to teach. (*Indiana Auctioneer Commission; 812 IAC 3-1-7; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3096; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221*)

#### **812 IAC 3-1-8 Instructors; prohibitions**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 8. An auctioneer continuing education sponsor is prohibited from hiring, or retaining in its employ, an instructor who has:

- (1) had an auctioneer, auction company, or auction house license revoked or suspended by any jurisdiction;
- (2) obtained or used, or attempted to obtain or use, in any manner, Indiana auctioneer licensing examination questions to be used on future examinations unless authorized by law;
- (3) been convicted of a crime that has a direct bearing on the individual's ability to competently instruct, including, but not necessarily limited to, violations of auction laws and abuse of fiduciary responsibilities;
- (4) falsely certified hours of attendance or grades for any student; or
- (5) unless allowed by law, refused to appear and/or testify under oath at any hearing held by the commission.

(*Indiana Auctioneer Commission; 812 IAC 3-1-8; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3096; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221*)

#### **812 IAC 3-1-9 Monitoring continuing education courses**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-1-11; IC 25-6.1-9

Sec. 9. (a) Continuing education courses offered by an approved course sponsor shall be monitored by that course sponsor to ensure that participants are physically present for the duration of the course.

(b) In order to monitor a continuing education course, an approved course sponsor must do the following:

- (1) Require participants to sign in and out as they enter and exit the classroom, noting the time of arrival or departure.
- (2) Designate one (1) employee to monitor the continuing education course.

(c) The duties of the individual listed in subsection (b)(2) shall include the following:

- (1) Ensure that order is maintained throughout the duration of the course.
- (2) Maintain the attendance sheets to assure their accuracy.
- (3) Verify the participant's signature upon the participant's entrance and exit.

(4) Distribute course completion certificates to participants who have been physically present for the duration of the course.

*(Indiana Auctioneer Commission; 812 IAC 3-1-9; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3097; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221)*

#### **812 IAC 3-1-10 Renewal applications**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-1-11; IC 25-6.1-9

Sec. 10. (a) An applicant for license renewal shall certify on the application that the applicant has complied with the continuing education requirements under IC 25-6.1-9 and this article.

(b) The commission may request verification of any information submitted by the applicant and may request the applicant to submit evidence supporting the course credit claimed.

(c) It is the responsibility of each licensee to retain course attendance verification to support the courses taken by the licensee for two (2) years after the end of the biennial period for which the continuing education is claimed.

(d) The commission may request applicants to prove information as provided in subsection (c) in order to verify continuing education hours claimed in the application. Failure to do so shall subject a licensee to the sanctions provided for under IC 25-1-11. *(Indiana Auctioneer Commission; 812 IAC 3-1-10; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3097; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221)*

#### **812 IAC 3-1-11 Failure to meet continuing education provisions**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-3-2

Sec. 11. (a) A licensee who does not obtain the required number of continuing education hours during a two (2) year licensure period may cure that deficiency by taking them in the next licensure period. However, the license shall not be renewed until the necessary hours are obtained. An individual whose license has lapsed longer than one (1) year is governed by IC 25-6.1-3-2(i).

(b) Continuing education hours obtained to cure a deficiency in a prior licensure period shall not be double-counted by also being credited toward the hours required for license renewal at the conclusion of the current licensure period. *(Indiana Auctioneer Commission; 812 IAC 3-1-11; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3097; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221)*

#### **812 IAC 3-1-12 Inactive license**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1-9-10

Sec. 12. An applicant for license renewal may request an inactive license under IC 25-6.1-9-10 by complying with that section and certifying under penalty of perjury that the applicant will not perform and does not intend to perform an act that requires an auctioneer license. *(Indiana Auctioneer Commission; 812 IAC 3-1-12; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3097; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221)*

#### **812 IAC 3-1-13 Reinstatement of inactive license; requirements**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-6.1

Sec. 13. In order to reinstate an inactive license at any time during the licensure period, the licensee must have completed twelve (12) actual hours of continuing education from course sponsors approved by the commission. *(Indiana Auctioneer Commission; 812 IAC 3-1-13; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3097; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221)*

#### **812 IAC 3-1-14 Commission review of continuing education compliance**

**Authority:** IC 25-6.1-2-5

**Affected:** IC 25-1-11; IC 25-6.1-9

Sec. 14. (a) If, as the result of an audit or other review, the commission determines that continuing education hours a licensee has claimed do not meet the requirements of IC 25-6.1-9 and this article, the commission shall notify the licensee of that determination.

(b) A licensee, who has been notified under subsection (a), may within thirty (30) days submit information to the commission giving all the substantive reasons in support of the licensee's position that an adequate number of hours has been obtained.

(c) A licensee who submits false information under section 10 of this rule and this section shall be subject to the sanctions provided for under IC 25-1-11. *(Indiana Auctioneer Commission; 812 IAC 3-1-14; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3097; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221)*